

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

In the matter of:)	
)	
City of Redding)	
Redding Department of)	Order No. R5-2012-00XX (Proposed)
Public Works)	
)	
Administrative Civil Liability)	Settlement Agreement and Stipulation
Complaint Nos. R5-2011-0570)	for Entry of Order; Order (Proposed)
and R5-2011-0587, and NOVs)	
as Described Herein.)	

Section I: INTRODUCTION

This Settlement Agreement and Stipulation for entry of Administrative Civil Liability Order (“Agreement” or “Stipulated Order” or “Order”) is entered into by and between the Executive Officer of the Regional Water Quality Control Board, Central Valley Region (“Central Valley Water Board”), on behalf of the Central Valley Water Board Prosecution Staff (“Prosecution Staff”), and the City of Redding (“Respondent”) (collectively the “Parties”) and is presented to the Central Valley Water Board, or its delegee, for adoption as an order by settlement, pursuant to Government Code section 11415.60.

Section II: RECITALS

1. Respondent owns and operates a municipal sanitary sewer system in the City of Redding, including two domestic wastewater treatment plants and associated wastewater collection systems; the Clear Creek Wastewater Treatment Plant (Clear Creek WWTP) located at 2200 Metz Road, Redding, Shasta County, and the Stillwater Wastewater Treatment Plant (Stillwater WWTP) located at 6475 Airport Road, Anderson, Shasta County. The Clear Creek WWTP operated under WDR Order No. R5-2003-0130 (NPDES No. CA0079731) (“2003 Clear Creek NPDES Permit”) from 5 September 2003 to 22 September 2010, and continues to operate under WDR Order No. R5-2010-0096 (NPDES No. CA0079731) (“2010 Clear Creek NPDES Permit”) from 23 September 2010 to the present day. The Stillwater WWTP operates under WDR Order No. R5-2007-0058 (NPDES No. CA0082589) (“2007 Stillwater NPDES Permit”). The collection system is also subject to State Water Resources Control Board (“State Water Board”) Order No. WQ-2006-0003 for Sanitary Sewer Systems (“SSO General Order”).
2. On 11 May 2011, the Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint No. R5-2011-0570 (“May 2011 Complaint”) to the Respondent (Attachment A). The Complaint recommends imposing an administrative civil liability totaling \$72,000 for alleged effluent limitation violations resulting from a

chlorine excursion at the Stillwater WWTP in January 2011 (“Alleged May 2011 ACL Violations”). The proposed administrative civil liability includes staff costs of \$4,750.

3. On 19 July 2011, the Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint No. R5-2011-0587 (“July 2011 Complaint”) to the Respondent (Attachment B). The Complaint recommends imposing an administrative civil liability totaling \$200,000 for alleged effluent limitation violations and mandatory minimum penalties for discharges from the Clear Creek WWTP during the period of 17 December 2009 to 2 April 2011 (“Alleged July 2011 ACL Violations”). The proposed administrative civil liability includes staff costs of \$4,350.

4. On 14 February 2011, the Supervising Engineer of the Central Valley Water Board issued a Notice of Violation to the Respondent for an alleged chlorine residual effluent limit violation (Alleged Chlorine Violation) at the Stillwater WWTP (Attachment C). The Notice of Violation was referred to the Executive Officer of the Central Valley Water Board for further enforcement action, resulting in the May 2011 Complaint.

5. On 31 May 2011, the Supervising Engineer of the Central Valley Water Board issued a Notice of Violation to the Respondent for an alleged dichlorobromomethane effluent limit violation (“Alleged DCBM Violation”) at the Stillwater WWTP (Attachment D). The Notice of Violation was referred to the Executive Officer of the Central Valley Water Board for further enforcement action.

6. On 18 May 2011, the Supervising Engineer of the Central Valley Water Board issued a Notice of Violation to the Respondent for multiple alleged effluent limit violations and for allegedly bypassing filtration treatment for a portion of inflow between 23 March 2011 and 3 April 2011 at the Clear Creek WWTP, and on 18 May 2011, the Supervising Engineer of the Central Valley Water Board issued a Notice of Violation to the Respondent for bypassing filtration treatment for a portion of inflow between 26 March 2011 and 28 March 2011 at the Stillwater WWTP (Attachments E and F). The Notices of Violation alleged that the bypass events were in violation of Discharge Prohibitions and Standard Provision I.G.3. in both the 2010 Clear Creek NPDES Permit and the 2007 Stillwater NPDES Permit (“Alleged Bypass Violations”). The Notices of Violation were referred to the Executive Officer of the Central Valley Water Board for further enforcement action.

7. On June 20, 2012, the Supervising Engineer of the Central Valley Water Board issued a Notice of Violation to the Respondent for alleged effluent limit violations for pH (Alleged pH Violations) at the Stillwater WWTP (Attachment G). The alleged violations occurred on 12 January 2012 and 13 January 2012. The Notice of Violation was referred to the Executive Officer of the Central Valley Water Board for further enforcement action.

8. The Prosecution Team determined that between 3 September 2007 and 31 May 2012 the Respondent reported into the California Integrated Water Quality System (“CIWQS”) database 78 alleged violations related to sanitary sewer overflows from the Clear Creek and Stillwater collection systems (“Alleged SSO Violations”), two of which

had been previously resolved by settlement under the terms of Administrative Civil Liability Order R5-2009-0549. On both 15 February 2011 and 13 April 2012, the Supervising Engineer of the Central Valley Water Board issued Notices of Violation for alleged violations related to various sanitary sewer overflows included in the CIWQS database (Attachments H and I). Discharges of sewage from the collection system are prohibited under the 2003 Clear Creek NPDES Permit, the 2010 Clear Creek NPDES Permit, the 2007 Stillwater NPDES Permit, and the SSO General Order. A list of the remaining 76 alleged violations is included in Attachment J.

9. The Parties have engaged in settlement negotiations and agree to settle the matter without administrative or civil litigation and by presenting this Stipulated Order to the Central Valley Water Board, or its delegee, for adoption as an order by settlement pursuant to Government Code section 11415.60. The Prosecution Staff believes that the resolution of the alleged violations is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the violations alleged in the Complaints and the Notices of Violation except as provided in this Stipulated Order, and that this Stipulated Order is in the best interest of the public.

10. To resolve the Alleged May 2011 ACL Violations, the Alleged July 2011 ACL Violations, the Alleged Chlorine Violation, the Alleged Bypass Violations, the Alleged DCBM Violation, the Alleged pH Violations, and the Alleged SSO Violations by consent and without further administrative proceedings, the Parties have agreed to the imposition of \$1,450,000 in liability against the Respondent. The Respondent agrees to expend \$800,000 toward a Supplemental Environmental Project ("SEP"). The Respondent shall also pay a total of \$225,000 to the State Water Pollution Cleanup and Abatement Account, consisting of approximately \$10,000 in staff costs, \$21,000 in mandatory minimum penalties, and the balance in stipulated penalties. The remaining \$425,000 in liability will be progressively suspended if the Respondent meets progressive annual milestones associated with completion of the SEP as set forth in this stipulation.

Section III: STIPULATIONS

The Parties stipulate to the following:

11. Administrative Civil Liability: Respondent hereby agrees to the imposition of an administrative civil liability totaling \$1,450,000 as set forth in Paragraph 10 of Section II herein. Within thirty (30) days of the effective date of this Order, Respondent agrees to remit, by check, TWO HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$225,000), payable to the *State Water Pollution Cleanup and Abatement Account*, and shall indicate on the check the number of this Order. Respondent shall send the original signed check to Julie Macedo, State Water Resources Control Board, Office of Enforcement, P.O. Box 100, Sacramento, CA 95812, and shall send a copy to Robert Crandall, Regional Water Quality Control Board, Central Valley Region, 364 Knollcrest Drive, Suite 200, Redding, CA 96002. Further, the Parties agree that \$800,000 of this administrative civil liability shall be suspended pending completion of the SEP ("SEP Suspended Liability"), and that \$425,000 shall be suspended and shall be progressively

waived pending completion of SEP project milestones ("Suspended Liability"). The SEP Suspended Liability and Suspended Liability amounts will be waived upon completion of the following:

- a. Completion of Private Sewer Lateral Replacement Program SEP as set forth in Paragraphs 10 through 22 herein and Attachment K attached hereto and incorporated by reference (\$800,000);
- b. Timely progress toward completion of the Private Sewer Lateral Replacement Program by meeting a series of annual goals for specified program expenditures (Private Sewer Lateral SEP Deliverables) as set forth in Attachment L attached hereto and incorporated by reference (\$425,000).

12. SEP Descriptions: The Parties agree that this Stipulation includes the performance of these two SEP project milestones:

- a. **Private Sewer Lateral Replacement Program SEP:** The goal of this project is to reduce inflow and infiltration (I/I) into the Discharger's collection system from defective private sewer laterals. A reduction in I/I will benefit surface water quality and beneficial uses by decreasing the number and volume of spills of untreated or partially treated sewage from the Discharger's collection system to surface waters during wet weather. In addition, the program will reduce the amount of flow to the Clear Creek and Stillwater WWTPs during wet-weather events, avoiding the need to bypass wastewater treatment. Detailed plans concerning how the Discharger will implement the Private Sewer Lateral Replacement Program SEP are provided in the SEP proposal included herein as Attachment K.
- b. **SEP Completion Dates:** The Private Sewer Lateral Replacement Program SEP shall be concluded, and a Certificate of Completion shall be provided to the Central Valley Water Board by February 1, 2018 ("Private Sewer Lateral Replacement Program SEP Completion Date"). The SEP shall be implemented in accordance with the schedule and milestone dates provided in the Private Sewer Lateral SEP Deliverables included as Attachment L.

13. Agreement of Discharger to Fund, Report, and Guarantee Implementation of SEP: Respondent represents that: (1) it will fund the SEP in the amount as described in this Stipulation; (2) it will provide certifications and written reports to the Central Valley Water Board consistent with the terms of this Stipulation detailing the implementation of the SEP; and (3) it will guarantee implementation of the SEP by remaining liable for the SEP Suspended Liability in accordance with Paragraph 19 of Section III, until the SEP is completed and accepted by the Central Valley Water Board in accordance with the terms of this Stipulation. Respondent agrees that the Central Valley Water Board has the right to require an audit of the funds expended by it to implement the SEP.

14. Oversight of SEP: Respondent is solely responsible for paying for all oversight costs incurred to oversee the SEP. The SEP oversight costs are in addition to the total

administrative civil liability imposed against the Respondent and are not credited toward Respondent's obligation to fund the SEP.

15. SEP Progress Reports: Respondent shall provide semi-annual reports of progress to a Designated Central Valley Water Board Representative, and the State Water Resources Control Board's Division of Financial Assistance, commencing ninety (90) days after this Stipulation becomes final and continuing through submittal of the Certificate of Completion described below in Paragraph 16. If no activity occurred during a particular quarter, a quarterly report so stating shall be submitted.

16. Certification of Completion of SEP: On or before the applicable SEP Completion Date, Respondent shall submit a certified statement of completion of the SEP ("Certification of Completion"). The Certification of Completion shall be submitted under penalty of perjury, to the Designated Central Valley Water Board Representative and the State Water Resources Control Board's Division of Financial Assistance, by a responsible official representing the Respondent. The Certification of Completion shall include the following:

- a. Certification that the SEP has been completed in accordance with the terms of this Stipulation. Such documentation may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Central Valley Water Board to evaluate the completion of the SEP and the costs incurred by the Respondent.
- b. Certification documenting the expenditures by Respondent during the completion period for the SEP. Expenditures may be external payments to outside vendors or contractors performing the SEP. In making such certification, the official may rely upon normal company project tracking systems that capture employee time expenditures and external payments to outside vendors such as environmental and information technology contractors or consultants. The certification need not address any costs incurred by the Central Valley Water Board for oversight. Respondent shall provide any additional information requested by the Central Valley Water Board staff which is reasonably necessary to verify SEP expenditures.
- c. Certification, under penalty of perjury, that Respondent followed all applicable environmental laws and regulations in the implementation of the SEP including but not limited to the California Environmental Quality Act (CEQA), the federal Clean Water Act, and the Porter-Cologne Act. To ensure compliance with CEQA where necessary, Respondent shall provide the Central Valley Water Board with the following documents from the lead agency prior to commencing SEP construction:
 - i. Categorical or statutory exemptions relied upon;
 - ii. Negative declaration if there are no potentially "significant" impacts;

- iii. Mitigated negative declaration if there are potentially “significant” impacts but revisions to the project have been made or may be made to avoid or mitigate those potentially significant impacts; or
- iv. Environmental Impact Report (EIR).

17. Third Party Financial Audit: In addition to the certification, upon completion of the SEP and at the written request of the Central Valley Water Board, Respondent, at its sole cost, shall submit a report prepared by an independent third party(ies) acceptable to the Central Valley Water Board staff, or its designated representative, providing such party’s(ies’) professional opinion that the Respondent and/or an implementing party (where applicable) have expended money in the amounts claimed by Respondent. The audit report shall be provided to the Central Valley Water Board staff within three months of notice from Central Valley Water Board to Respondent of the need for an independent third party financial audit. The audit need not address any costs incurred by the Central Valley Water Board for oversight.

18. Central Valley Water Board Acceptance of Completed SEP: Upon Respondent’s satisfaction of its SEP obligations under this Stipulation and completion of the SEP and any audit requested by the Central Valley Water Board, Central Valley Water Board staff shall send Respondent a letter recognizing satisfactory completion of its SEP obligations under this Stipulation. This letter shall terminate any further SEP obligations of Respondent and result in the permanent waiver of the SEP Suspended Liability and Suspended Liability.

19. Failure to Expend all SEP Suspended Liability Funds on the approved SEP: In the event that Respondent is not able to demonstrate to the reasonable satisfaction of the Central Valley Water Board staff that the entire SEP Suspended Liability has been spent to complete the components of the SEP for which Respondent is financially responsible, Respondent shall pay the difference between the SEP Suspended Liability and the amount Respondent can demonstrate was actually spent on the SEP as an administrative civil liability. Respondent shall pay this remainder within thirty (30) days of its receipt of notice of the Central Valley Water Board’s determination that Respondent has failed to demonstrate that the entire SEP Suspended Liability has been spent to complete the SEP components.

20. Force Majeure: In the event that the SEP is not performed in accordance with the specific terms and conditions, including the time schedule, detailed in Attachments K and L, due to circumstances beyond the reasonable control of the Respondent and which could not have been reasonably foreseen and prevented by the exercise of due diligence, the Respondent will provide written notice to the designated Central Valley Water Board staff within five (5) days of the date Respondent first knew of the event or circumstance that caused the deviation from the SEP terms and conditions. The final determination as to whether the circumstances were beyond the reasonable control of Respondent will be made by the Executive Officer of the Central Valley Water Board. In this event, the Parties agree to meet and confer regarding an extension of time to complete the SEP.

For purposes of this Agreement, a “force majeure” is defined as an event which could not have been anticipated by Respondent, is beyond the control of Respondent, and is of such great import and character, including but not limited to an act of God; earthquake; flood and any other natural disaster; civil disturbance and strike; fire and explosion; declared war in the United States; or embargo. To trigger the force majeure protection under this Agreement, Respondent must demonstrate that timely compliance with the SEP and/or any affected interim deadlines will be actually and necessarily delayed, that it has taken measures to avoid and/or mitigate the delay by the exercise of all reasonable precautions and efforts, whether before or after the occurrence of the cause of the delay; and Respondent provides written notice as described above. Delays caused by actions under the control of the Respondent will not constitute a force majeure.

For purposes of this Agreement, a “force majeure” does not include delays caused by funding, easements, contractor performance, equipment delivery and quality, weather, permitting, and other related issues. In addition, this Agreement is not subject to modification based on force majeure due to construction delays, CEQA challenges, initiative litigation, adverse legislation, or other matters of a legal nature.

21. Failure to Complete the SEP: Except as provided in Paragraph 20, if the SEP is not fully implemented within the SEP completion dates required by this Stipulation, the Designated Central Valley Water Board Representative shall issue a Notice of Violation. As a consequence, Respondent shall be liable to pay the entire Suspended Liability or, some portion thereof less the value of the completion of any milestone requirements. Unless otherwise ordered, Respondent shall not be entitled to any credit, offset, or reimbursement from the Central Valley Water Board for expenditures made on the SEP prior to the date of receipt of the Notice of Violation. The amount of the Suspended Liability owed shall be determined via a “Motion for Payment of Suspended Liability” before the Central Valley Water Board, or its delegee. Upon a determination by the Central Valley Water Board, or its delegee, of the amount of the Suspended Liability assessed, the amount shall be paid to the State Water Board Cleanup and Abatement Account within thirty (30) days after the service of the Central Valley Water Board’s determination. In addition, Respondent shall be liable for the Central Valley Water Board’s reasonable costs of enforcement, including but not limited to legal costs and expert witness fees. Payment of the assessed amount will satisfy Respondent’s obligations to implement the SEP.

22. Publicity: Should Respondent or its agents or subcontractors publicize one or more elements of the SEP, they shall state **in a prominent manner** that the project is being partially funded as part of the settlement of an enforcement action by the Central Valley Water Board against Respondent.

23. Compliance with Applicable Laws: Respondent understands that payment of administrative civil liability in accordance with the terms of this Stipulated Order and compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged in the Complaint may subject it to further enforcement, including additional administrative civil liability.

24. Party Contacts for Communications Related to Stipulated Order:

For the Central Valley Water Board:

Bryan Smith
Regional Water Quality Control Board
Central Valley Region
364 Knollcrest Drive, Suite 200
Redding, CA 96002

For Respondent:

Jon McClain
City of Redding
Department of Public Works
P.O. Box 496071
Redding, CA 96049

25. Attorney's Fees and Costs: Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.

26. Matters Addressed by Stipulation: Upon the Central Valley Water Board's adoption of this Stipulated Order, this Order represents a final and binding resolution and settlement of the violations alleged in the Complaints, Notices of Violation, and all claims, violations or causes of action that could have been asserted against the Respondent as of the effective date of this Stipulated Order based on the specific facts alleged in the Complaints, Notices of Violation or this Order ("Covered Matters"). The provisions of this paragraph are expressly conditioned on the full payment of the administrative civil liability, in accordance with Paragraph 10.

27. Public Notice: Respondent understands that this Stipulated Order will be noticed for a 30-day public review and comment period prior to consideration by the Central Valley Water Board, or its delegee. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Central Valley Water Board, or its delegee, for adoption, the Executive Officer may unilaterally declare this Stipulated Order void and decide not to present it to the Central Valley Water Board, or its delegee. Respondent agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order.

28. Addressing Objections Raised During Public Comment Period: The Parties agree that the procedure contemplated for the Central Valley Water Board's adoption of the settlement by the Parties and review by the public, as reflected in this Stipulated Order, will be adequate. In the event procedural objections are raised prior to the Stipulated Order becoming effective, the Parties agree to meet and confer concerning

any such objections, and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.

29. No Waiver of Right to Enforce: The failure of the Prosecution Staff or Central Valley Water Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of the Order. The failure of the Prosecution Staff or Central Valley Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order.

30. Interpretation: This Stipulated Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party.

31. Modification: This Stipulated Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Central Valley Water Board.

32. If Order Does Not Take Effect: In the event that this Stipulated Order does not take effect because it is not approved by the Central Valley Water Board, or its delegee, or is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Central Valley Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violations, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing. The Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to:

- a. Objections related to prejudice or bias of any of the Central Valley Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Central Valley Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Stipulation and/or the Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the Complaint in this matter; or
- b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.

33. No Admission of Liability: In settling this matter, Respondent does not admit to any of the findings in the Complaints, Notices of Violation, this Stipulated Order, or that it has been or is in violation of the Water Code, or any other federal, state, or local law or ordinance; however, the Respondent recognizes that this Stipulated Order may be used as evidence of a prior enforcement action consistent with Water Code section 13327.

34. Waiver of Hearing: Respondent has been informed of the rights provided by Water Code section 13323(b), and hereby waives its right to a hearing before the Central Valley Water Board prior to the adoption of the Stipulated Order.

35. Waiver of Right to Petition: Respondent hereby waives its right to petition the Central Valley Water Board's adoption of the Stipulated Order as written for review by the State Water Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court.

36. Covenant Not to Sue: Respondent covenants not to sue or pursue any administrative or civil claim(s) against any State Agency or the State of California, its officers, Board Members, employees, representatives, agents, or attorneys arising out of or relating to any Covered Matter.

37. Central Valley Water Board is Not Liable: Neither the Central Valley Water Board members nor the Central Valley Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from acts or omissions by Respondent, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order.

38. Authority to Bind: Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of and to bind the entity on whose behalf he or she executes the Order.

39. No Third Party Beneficiaries. This Stipulated Order is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.

40. Effective Date: This Stipulated Order shall be effective and binding on the Parties upon the date the Central Valley Water Board, or its delegee, enters the Order.

41. Counterpart Signatures: This Stipulated Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document.

IT IS SO STIPULATED.

California Regional Water Quality Control Board Prosecution Staff
Central Valley Region

By: _____
Pamela Creedon
Executive Officer

Date: _____

City of Redding

By: _____

Date: _____

Order of the Central Valley Water Board

42. In adopting this Stipulated Order, the Central Valley Water Board or its delegee has considered, where applicable, each of the factors prescribed in Water Code sections 13327 and 13385(e). The consideration of these factors is based upon information and comments obtained by the Central Valley Water Board staff in investigating the allegations in the Complaint or otherwise provided to the Central Valley Water Board or its delegee by the Parties and members of the public. In addition to these factors, this settlement recovers the costs incurred by the staff of the Central Valley Water Board for this matter.

43. This is an action to enforce the laws and regulations administered by the Central Valley Water Board. The Central Valley Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, section 21000, et seq.), in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations.

44. The terms of the foregoing Stipulation are fully incorporated herein and made part of this Order of the Central Valley Water Board.

Pursuant to Water Code section 13323 and Government Code section 11415.60, **IT IS HEREBY ORDERED** by the California Regional Water Quality Control Board, Central Valley Region.

(Signature)

(Print Name and Title)

Date: _____

ATTACHMENT A

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2011-0570

For

VIOLATION OF WASTEWATER DISCHARGE REQUIREMENTS
ORDER NO. R5-2007-0058 (NPDES NO. CA0082589)

IN THE MATTER OF

CITY OF REDDING
STILLWATER WASTEWATER TREATMENT FACILITY
WDID NO. 5A450103004

SHASTA COUNTY

This Administrative Civil Liability Complaint (Complaint) is issued to the City of Redding Stillwater Wastewater Treatment Facility (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, CWC section 13323, which authorizes the Executive Officer to issue this Complaint, and CWC section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. The Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2007-0058 (NPDES No. CA0082589).

The Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds the following:

1. The Discharger owns and operates a Publicly Owned Treatment Works. The treatment system consists of screening for removal of large solids, activated sludge treatment with secondary clarification, filtration, and chlorination/dechlorination. Waste activated sludge is treated by aerobic digestion followed by belt-filter-press dewatering. Biosolids are disposed at a sanitary landfill and land applied on property owned by the Discharger. Wastewater is discharged through a diffuser at Discharge D-001 to the Sacramento River, a water of the United States.
2. Section 301 of the Federal Water Pollution Control Act (Clean Water Act) (33 U.S.C, §1311) and the CWC section 13376 prohibit the discharge of pollutants to surface waters except in compliance with a NPDES permit.
3. On 21 June 2007, the Central Valley Water Board issued Waste Discharge Requirements Order R5-2007-0058 (NPDES No. CA0082589), to regulate discharges of treated wastewater from the facility.
4. The discharge prohibitions and effluent limitations set forth in the WDRs include but are not limited to, the following:

- The discharge of waste that causes violation of any narrative water quality objective contained in the Basin Plan is prohibited.
- The discharge of waste that causes violation of any numeric water quality objective contained in the Basin Plan is prohibited.

4. Order No. R5-2007-0058 includes, in part, the following effluent limitations:

A. Effluent Limitations – Discharge Point D-001

1. Final Effluent Limitations – Discharge Point D-001

The Discharger shall maintain compliance with the following effluent limitations at Discharge Point D-001, with compliance measured at Monitoring Location EFF-001 as described in the attached MRP (Attachment E):

- a. The Discharger shall maintain compliance with the effluent limitations specified in Table 6:

Table 6. Effluent Limitations

Parameter	Units	Effluent Limitation				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
BOD 5-day @ 20°C	Mg/L	10	15	30		
	lbs/day ^a	334	500	1,001		
Total Suspended Solids		10	15	30		
	lbs/day ^a	334	500	1,001		
pH	standard units				6.0	9.0
Copper, Total Recoverable	Ug/L	13.7		27.4		
Zinc, Total Recoverable	Ug/L	57.8		115.9		
Cyanide, Total (as CN)	Ug/L	31.8		63.7		
Chlorodibromomethane	Ug/L	12.1		24.2		
Dichlorobromomethane	Ug/L	18.1		36.2		
alpha-BHC	Ug/L	0.11		0.21		
beta-BHC	Ug/L	0.15		0.30		
gamma-BHC	Ug/L	0.81		1.62		
Chlorine Residual	Mg/L		0.01 ^b	0.02 ^b		
Total Coliform Organisms	MPN/100 ml	23 ^d		500		

- a Based upon a dry weather treatment design flow of 4.0 mgd.
 b 4-day average.
 c 1-hour average.
 d Monthly median.

- b. **Percent Removal:** The average monthly percent removal of BOD 5-day 20°C and total suspended solids shall not be less than 85 percent.

- c. **Acute Whole Effluent Toxicity.** Survival of aquatic organisms in 96-hour bioassays of undiluted waste shall be no less than:
 - i. 70%, minimum for one bioassay; and
 - ii. 90%, median for any three consecutive bioassays.
 - d. **Total Residual Chlorine.** Effluent total residual chlorine shall not exceed:
 - i. 0.01 mg/L, as a 4-day average;
 - ii. 0.02 mg/L, as a 1-hour average;
 - e. **Total Coliform Organisms.** Effluent total coliform organisms shall not exceed:
 - i. 23 most probable number (MPN) per 100 mL, as a 30-day median; and
 - ii. 500 MPN/100mL, more than once in any 30-day period.
 - f. **Average Daily Discharge Flow.** The monthly average daily dry weather (May through September) discharge flow shall not exceed 4.0 mgd. Flow occurring in May shall be excluded from this limitation if significant rain events occur or seasonal high groundwater conditions persist.
5. Furthermore, all NPDES permits must specify requirements for recording and reporting monitoring results. (40 C.F.R. § 122.48). CWC section 13383 authorizes the Regional Water Board to establish monitoring and reporting requirements. The WDRs require the Discharger to implement a discharge monitoring program and to prepare and submit timely monthly and annual NPDES self-monitoring reports to the Regional Water Board, which are designed to ensure compliance with effluent limitations contained in the WDRs.

STATEMENT OF WATER CODE SECTIONS UPON WHICH LIABILITY IS BEING ASSESSED

- 6. An administrative civil liability may be imposed pursuant to the procedures described in CWC section 13323. An administrative civil liability complaint alleges the act or failure to act that constitutes a violation of law, the provision of law authorizing administrative civil liability to be imposed, and the proposed administrative civil liability.
- 7. Pursuant to CWC section 13385(a), any person who violates CWC section 13376, any waste discharge requirements issued pursuant to Chapter 5.5 of the Porter-Cologne Water Quality Control Act (Compliance with the Provisions of the Clean Water Act), any requirements established pursuant to CWC section 13383, or any requirements of section 301 of the Clean Water Act is subject to administrative civil liability pursuant to CWC section 13385(c).

8. CWC section 13385(c), provides for the imposition of civil liability by the Regional Water Board in an amount not to exceed the sum of both of the following: (1) Ten thousand dollars (\$10,000) for each day in which the violation occurs; and (2) where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

ALLEGED EFFLUENT LIMITATION VIOLATIONS

9. On 23 January 2011, between 0800 and 0859 hours, the 1-hour average chlorine residual concentration in Effluent EFF-001 was calculated to be 0.17 mg/L with a maximum concentration of 1.81mg/l or 8,950 percent greater than the allowed 1-hour average chlorine residual effluent limitation of 0.02 mg/L.
10. On 23 January 2011, between 0900 and 0959 hours, the 1-hour average chlorine residual concentration in Effluent EFF-001 was calculated to be 1.32 mg/L, with a maximum concentration of 5.00 mg/L or 24,900 percent greater than the allowed 1-hour average chlorine residual effluent limitation of 0.02 mg/L.
11. On 27 January 2011 the 4-day average chlorine residual concentration in Effluent EFF-001 was calculated to be 0.015 mg/L, or 150 percent greater than the allowed 4-day average chlorine residual effluent limitation of 0.01 mg/L.
12. The discharge volume was determined by multiplying the 1-minute average discharge flow (1,462 gallons per minute (gpm) during the exceedance) multiplied by the exceedance time (actual discharge time above chlorine residual effluent limit) of 46 minutes. Total volume equals 1,462 gpm multiplied by 46 minute equals 67,250 gallons.

FACTORS CONSIDERED IN DETERMINING ADMINISTRATIVE CIVIL LIABILITY

13. Pursuant to CWC section 13385, subdivision (e), in determining the amount of any civil liability imposed under CWC section 13385(c), the Regional Water Board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require. CWC section 13385, subdivision (e) also requires that at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation(s). The Regional Water Board is not required to consider these factors prior to the imposition of penalties under CWC section 13385, subsections (h) and (i).
14. On 17 November 2010, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement

Policy was approved by the Office of Administrative Law and became effective on 20 May 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in CWC section 13385(e). The entire Enforcement Policy can be found at:

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final11179.pdf


The administrative civil liability was derived from the use of the penalty methodology in the Policy. In summary, this penalty assessment is based on a consideration of the failure to respond to requests made pursuant to CWC section 13267, subdivision (b), for Violations 1 through 4. The proposed civil liability takes into account such factors as the Discharger's culpability, history of violations, ability to pay and continue in business, and other factors as justice may require. The required factors have been considered for the prohibited discharge violations using the methodology in the Enforcement Policy, as explained in detail in Attachment A.

PROPOSED ADMINISTRATIVE CIVIL LIABILITY

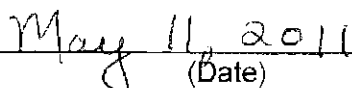
15. The maximum penalty for the violations described is \$672,500 based on a calculation of the total number of gallons discharged times the statutory maximum, plus the total number of per-day violations times the statutory maximum penalty (66,250 gallons at \$10/gallon plus 1 day at \$10,000/day). However, based on consideration of the above facts and after applying the penalty methodology, the Assistant Executive Officer of the Central Valley Water Board proposes that civil liability be imposed administratively on the Discharger in the amount of **\$72,000** for the violations of CWC section 13385. The specific factors considered in this penalty are detailed in Attachment A.
16. There are no statutes of limitations that apply to administrative proceedings. The statutes of limitations that refer to "actions" and "special proceedings" and are contained in the California Code of Civil Procedure apply to judicial proceedings, not an administrative proceeding. See *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal. App. 4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, §405(2), p. 510.)
17. Notwithstanding the issuance of this Complaint, the Central Valley Water Board retains the authority to assess additional penalties for violations of the requirements of the Discharger's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.
18. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321 subsection (a) (2).

**THE CITY OF REDDING STILLWATER WASTEWATER TREATMENT FACILITY IS
HEREBY GIVEN NOTICE THAT:**

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed a Mandatory Penalty in the amount of **seventy-two thousand dollars (\$72,000)**.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled on **3/4/5 August 2011**, unless the Discharger does one of the following by **6 June 2011**:
 - a) Waives the hearing by completing the attached form (checking off the box next to Option 1) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **seventy-two thousand dollars (\$72,000)**; or
 - b) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests to engage in settlement discussions by checking off the box next to Option #2 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed; or
 - c) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests a delay by checking off the box next to Option #3 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed.
3. If a hearing on this matter is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
 - a. If this matter proceeds to hearing, the Assistant Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal and expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.



ROBERT A. CRANDALL
Assistant Executive Officer



(Date)

Attachment A – ACL Complaint No. R5-2011-0570

Specific Factors Considered-Civil Liability

City of Redding, Stillwater Wastewater Treatment Facility

Each factor of the Enforcement Policy and its corresponding score is presented below.

The Monetary Assessments in Administrative Civil Liability (ACL) Actions is set forth in the Water Quality Enforcement Policy using a nine step approach. The rational for calculating the ACL is discussed below.

Step 1 – Potential for Harm for Discharge Violations

To determine the actual or threatened impact to beneficial uses caused by the violation is done using a three-factor scoring system to quantify: (1) the potential for harm to beneficial uses; (2) the degree of toxicity of the discharge; and (3) the Dischargers susceptibility to cleanup or abatement for each violation or group of violations.

Factor 1: Harm or Potential Harm to Beneficial Uses.

A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm is negligible (0) to major (5). In this case the potential harm to beneficial uses was determined to be moderate (3). A moderate score means that the threat to beneficial uses (i.e., impacts are observed or reasonably expected and impacts to beneficial uses are moderate and likely to attenuate without appreciable acute or chronic effects). While the Discharger states that no impacts fish or other aquatic life were observed downstream of the discharge, the concentration of chlorine residual did exceed the USEPA recommended 1-hour average criteria for freshwater aquatic life protection of 0.019 mg/L. The concentration of chlorine residual in the discharge exceeded the water quality objective for short term exposure (0.02 mg/L) by 7,300%.

Factor 2: The Physical, Chemical, Biological or Thermal Characteristics of the Discharge.

A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material. In this case a score of 3 was assigned. A score of 3 means that the discharged material poses an above-moderate risk or a direct threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material exceed known risk factors and/or there is substantial concern regarding receptor protection). Chlorine residual is known to cause toxicity in fish and aquatic organisms.

Factor 3: Susceptibility to Cleanup or Abatement.

A score of 0 is assigned for this factor if 50% or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned for this factor if less than 50% of the discharge is susceptible to cleanup or abatement. This factor is evaluated regardless of whether the discharge was actually cleaned up or abated by the discharger. In this case cleanup or abatement was not possible. Therefore, a factor of 1 is assigned.

Final Score – "Potential for Harm"

The scores of the three factors are added to provide a Potential for Harm score for each violation or group of violations. In this case, **a final score of 7** was calculated. The total score is then used to determine the Penalty Factors for per gallon discharges and per day discharges.

Step 2 – Assessment for Discharge Volumes

This step addresses per gallon and per day assessments for discharge violations.

Per Gallon Assessments for Discharge Volumes

Where there is a discharge, the Water Boards shall determine an initial liability amount on a per gallon basis using on the Potential for Harm score and the extent of Deviation from Requirement of the violation. Although the discharger violated the 1-hour average chlorine residual effluent limitation of 0.02 mg/L and the 4-day chlorine residual effluent limitation of 0.01 mg/L, the deviation from the requirement has been determined to be minor in this case. A minor deviation is defined as the intended effectiveness of the requirement remains generally intact (e.g., there is a general intent by the discharger to follow and meet the chlorine residual requirement). The discharge has not had a long term effect on the actual effluent limitation, monitoring requirements, or any other deadlines.

A discharge volume of 67,250 gallons was determined by multiplying the 1-minute average discharge flow (1,462 gpm during the exceedance) multiplied by the exceedance time of 46 minutes (actual discharge time above chlorine residual effluent limit). While the volume of the discharge appears to be great (67,250 gallons), it is not considered a High Volume Discharge as defines by the Water Quality Enforcement Policy. Therefore, California Water Code (CWC) section 13385(c)(2) allows for an additional liability of ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons. Therefore, the additional liability is calculated on a volume of 66,250 gallons.

Per Day Assessments for Discharge Volumes

CWC section 13385(c)(1) allows for additional ten thousand dollars per day (\$10,000) for each day in which the violation occurs. Since the discharge of violation occurred for approximately one hour, the violation has been determined to be one (1) day. This translates to an additional liability of \$10,000.

Initial Liability Amount: \$67,253 (Number of Days (1) X Maximum Penalty (\$10,000) X Per Day Factor (0.1) + Number of Gallons (66,250) X Max per Gallon (\$10) X Per Day Factor (0.1)). The per day and per gallon factors are from Tables 1 & 2 of the Water Quality Enforcement Policy and shown below.

ATTACHMENT A
CITY OF REDDING
STILLWATER WASTEWATER TREATMENT FACILITY
SHASTA COUNTY

Tables 1 & 2 of the Water Quality Enforcement Policy

Deviation from Requirement	Potential for Harm (per gallon factors and per day factors)									
	1	2	3	4	5	6	7	8	9	10
Minor	0.005	0.007	0.009	0.011	0.060	0.080	0.100	0.250	0.300	0.350
Moderate	0.007	0.010	0.013	0.016	0.100	0.15	0.200	0.400	0.500	0.600
Major	0.010	0.015	0.020	0.025	0.150	0.220	0.310	0.600	0.800	1.000

Step 3 – Per Day Assessment for Non-Discharge Violation: Does not apply

Step 4 – Adjustment Factors

There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to cleanup or cooperate with regulatory authority, and the violator's compliance history.

Culpability

Adjustments should result in a multiplier between 0.5 and 1.5, with the lower multiplier for accidental incidents, and a higher multiplier for negligent behavior. The Discharger was given a neutral multiplier value of 1.

Cleanup and Cooperation

Adjustments should result in a multiplier between 0.75 and 1.5, with the lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent. The Discharger was given a neutral multiplier value of 1.0, which neither increases nor decreases the violation amount. The discharger has a history of providing prompt notification of discharge events and cooperative in the cleanup following up and mitigation measures necessary to protect water quality.

History of Violation

The discharger has had 10 effluent limitation violations since 1993. Four separate discharges of chlorine residual resulted in five of the 10 effluent limitation violations (12/8/1993, 7/21/1998, 1/24/1999, and two on 1/23/2011). Two pH violations in October 2003, as well as the chlorine residual violations in January 2011 were caused by chlorine residual analyzer failures. While the Water Quality Enforcement Policy does not list a multiplier range, where there is a history of repeat violations a minimum multiplier of 1.1 should be used. However, given the long time in between effluent limitation violations, and the facility has not had recent problems with the chlorine residual violations until 2011, so the older violations were not considered. The Discharge was given a neutral value of a 1, which neither increases nor decreases the violation amount.

Step 5 - Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 2.

Total Base Liability Amount: \$67,250.00 (Initial Liability Amount (\$66,250) X Adjustment Factors (1)(1)(1)).

Step 6 - Ability to Pay and Ability to Continue in Business

The City of Redding, Stillwater Wastewater Treatment Facility is not a for profit enterprise. The City of Redding has approximately 30,000 service connections. The proposed ACL would equate to less than \$3.00 per service connection. The City of Redding's, wastewater treatment facilities Annual Operations Budget was \$32,792,940 in 2008-2009, \$58,048,650 (includes capital improvements costs) in 2009-2010, and \$35,872,240 for 2010-2011. The City of Redding appears to have the ability to pay the proposed ACL and remain solvent. The ability to pay and to continue in business factor affects the base liability amount as a straight multiplier. The Discharger was given a neutral multiplier value of 1.0, which neither increases nor decreases the violation amount.

Step 7 – Other Factors as Justice May Require

If the Water Board believes that the amount determined using the above factors is inappropriate, the amount may be adjusted under the provision for "other factors as justice may require," but only if express findings are made to justify this.

Costs of Investigation and Enforcement Adjustment

The costs of investigation and enforcement are "other factors as justice may require", and should be added to the liability amount. The Regional Water Board has incurred \$4,750 in staff costs associated with the investigation of the violation and preparation of the enforcement action.

Step 8 – Economic Benefit

An economic benefit gained from the discharge has not been determined. The economic benefit determination will require an inspection at the facility to review of the maintenance records for the failed pump, availability of replacement parts, staffing levels, response time, and employee interviews.

Step 9 – Maximum and Minimum Liability Amounts

The maximum and minimum amounts for the three violations (i.e., two 1-hour average violations and one 4-day violation) must be determined for comparison to the amounts being proposed.

Maximum Liability Amount

The maximum administrative civil liability which can be imposed under section 13385 of the CWC is \$10,000 per day per violation plus of ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons. The calculated discharge is a total of 67,250 gallons, none of which was

cleaned up. Therefore, the **maximum administrative civil liability is \$672,500** (66,250 gallons at \$10/gallon plus 1 day at \$10,000/day).

Minimum Liability Amount

The minimum administrative civil liability determined under section 13385(h) of the CWC would be \$3,000 for each serious violation. Regional Water Board staff has determined that the 1-hour average chlorine residual exceeded the effluent limitation during two separate hours which results in two serious violations. The 4-day average chlorine residual exceeded the effluent limitation for one 4-day period resulting in one additional serious violation. Therefore, the **minimum administrative civil liability is \$6,000.**

Step 10 – Final liability Amount

The final liability amount consists of the added amounts for each violation, with any allowed adjustments, provided amounts are within the statutory minimum (\$6,000) and maximum (\$672,500) amounts. Without further investigation of the discharge, calculation of economic benefits, and additional staff time, the proposed Administrative Civil Liability is **\$72,000.**

Table 1. Adjustment Factors

Adjustment Factors	Range	Factors Used
Harm or Potential Harm to Beneficial Uses	0 to 5	3
Physical, Chemical, Biological or Thermal Characteristics of the Discharge	0 to 4	3
Susceptibility to Cleanup or Abatement	0 or 1	1
Final Score	0 to 10	7
Per Gallon Assessment	Minor, Moderate, Major	Minor
Per Day Assessment	Minor, Moderate, Major	Minor
Culpability	0.5 to 1.5	1.0
Cleanup and Cooperation	0.75 to 1.5	1.0
History of Violations	Subjective, based on history	1.0
Ability to Pay	Based on financial information	1
Other Factors as Justice May Require	Subjective, based on investigation	1
Economic Benefit	Subjective, based on investigation	1
Violation Amount		\$72,000

Instructions

1. Select Potential Harm for Discharge Violations
2. Select Characteristics of the Discharge
3. Select Susceptibility to Cleanup or Abatement
4. Select Deviation from Standard
5. Click "Determine Harm & per Gallon/Day."
6. Enter values into the yellow highlighted fields.

Select Item: 0 = Moderate

Select Item: 3 = Discharged material poses above moderate

Select Item: 5 = 50% of Discharge Susceptible to Cleanup or Abatement

Select Item: 1 = Minor

Discharger Name/ID:

		Violation 1	
Step 1	Potential Harm Factor (Generated from Button)	7	
Step 2	Per Gallon Factor (Generated from Button)	0.1	
	Gallons	65,250	
	Statutory / Adjusted Max per Gallon (\$)	10.00	
	Total		\$ 66,250
	Per Day Factor (Generated from Button)	0.1	
	Days	1	
	Statutory Max per Day	10,000.00	
	Total		\$ 1,000
Step 3	Per Day Factor		
	Days		
	Statutory Max per Day		
	Total		\$
	Initial Amount of the ACL		\$ 67,250.00
Step 4	Culpability	1	\$ 67,250.00
	Cleanup and Cooperation	1	\$ 67,250.00
	History of Violations	1	\$ 67,250.00
Step 5	Total Base Liability Amount		\$ 67,250.00
Step 6	Ability to Pay & to Continue in Business	1	\$ 67,250.00
Step 7	Other Factors as Justice May Require	1	\$ 67,250.00
	Staff Costs	4,750	\$ 72,000.00
Step 8	Economic Benefit		\$
Step 9	Minimum Liability Amount	6,000	\$ 72,000.00
	Maximum Liability Amount	672,500	\$
Step 10	Final Liability Amount		\$ 72,000.00

Penalty Day Range Generator

Start Date of Violation= 1/23/11

End Date of Violation= 1/23/11

Maximum Days Fined (Steps 2 & 3) =

Minimum Days Fined (Steps 2 & 3) =

Days

Days

ATTACHMENT B

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2011-0587

For

VIOLATION OF WASTEWATER DISCHARGE REQUIREMENTS
ORDER NOS. R5-2003-0130 and R5-2010-0096 (NPDES NO. CA0079731)

IN THE MATTER OF

CITY OF REDDING
CLEAR CREEK WASTEWATER TREATMENT PLANT
WDID NO. 5A450103001

SHASTA COUNTY

This Administrative Civil Liability Complaint (Complaint) is issued to the City of Redding Clear Creek Wastewater Treatment Plant (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, CWC section 13323, which authorizes the Executive Officer to issue this Complaint, and CWC section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. The Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2003-0130 and WDRs Order R5-2010-0096 (NPDES No. CA0079731).

The Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds the following:

1. The Discharger owns and operates a Publicly Owned Treatment Works (POTW). The treatment system consists of screening for removal of large solids, grit removal, primary clarification, activated sludge treatment with secondary clarification, filtration, chlorination/dechlorination, flow equalization, and emergency storage. Waste activated sludge is stabilized in facultative sludge lagoons and air dried to generate Class B biosolids. Biosolids from the secondary treatment process are land applied on property owned by the Discharger. Wastewater is discharged through a diffuser at Discharge Point D-001 to the Sacramento River, a water of the United States.
2. Section 301 of the Federal Water Pollution Control Act (Clean Water Act) (33 U.S.C. §1311) and the CWC section 13376 prohibit the discharge of pollutants to surface waters except in compliance with a NPDES permit. The Regional Board, through delegated authority, may issue a Waste Discharge Requirement Order (WDR) to allow for the discharge of pollutants to surface waters. The WDRs serve as a NPDES Permit under the Federal Clean Water Act. From 5 September 2003 to 22 September 2010, the Discharger's POTW was regulated by Waste Discharge Requirements Order R5-2003-0130 (NPDES No. CA0079731), to regulate discharges of treated wastewater from the facility. On 23 September 2010, the Central Valley Water Board issued Waste Discharge Requirements Order R5-2010-0096 (NPDES No. CA0079731), to regulate discharges of treated wastewater from the facility. Both WDR Order R5-2003-0130 and WDR Order R5-2010-0096 apply to violations cited in this Complaint.

3. Order No. R5-2003-0130 includes, in part, the following effluent limitations:

B. Effluent Limitations

1. Effluent Limitations shall not exceed the following limits:

Parameter	Units	Effluent Limitation				
		Monthly Average	Weekly Average	Monthly Median	4-day Average	Daily Maximum
BOD ^a	mg/L	10	15			30
	lbs/day ^b	734	1,101			2,202
Total Suspended Solids	mg/L	10	15			30
	lbs/day ^b	734	1,101			2,202
Chlorine Residual	mg/L				0.01	0.02 ^c
Total Recoverable Copper	ug/L	12				17
	lbs/day ^b	0.88				1.2
Total Recoverable Zinc	ug/L	81				120
	lbs/day ^b	5.9				8.8
Bromodichloromethane	ug/L	21				42
	lbs/day ^b	1.5				3.1
Dibromochloromethane	ug/L	14				29
	lbs/day ^b	1.0				2.1
Tetrachloroethene	ug/L	30				59
	lbs/day ^b	2.2				4.3
Total Coliform Organisms	MPN/100 ml			23		500

- a 5-day, 20°C Biochemical Oxygen Demand (BOD)
 b Based upon a design treatment capacity of 8.8 mgd.
 c 1-hour average

- The arithmetic mean of 20°C BOD (5-day) and total suspended solids in effluent samples collected over a monthly period shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal).
- The discharge shall not have a pH less than 6.0 nor greater than 9.0.
- The average dry weather (July through September) discharge flow shall not exceed 8.8 MGD).
- Survival of aquatic organisms in 96-hour bioassays of undiluted waste shall be no less than:

Minimum for one bioassay _____ 70%
 Median for any three consecutive bioassays _____ 90%.

4. Order No. R5-2010-0096 includes, in part, the following effluent limitations:

A. Effluent Limitations – Discharge Point No. 001

6. Final Effluent Limitations – Discharge Point No. 001

- a. The Discharger shall maintain compliance with the following effluent limitations at Discharge Point No. 001 with compliance measured at Monitoring Location EFF-001 as described in the attached MRP (Attachment E)

Table 6. Effluent Limitations – Discharge point No. 001

Parameter	Units	Effluent Limitation				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Conventional Pollutants						
Biochemical Oxygen Demand, 5-day 20°C	mg/L	10	15	30		
	lbs/day ^a	734	1,101	2,202		
Total Suspended Solids	mg/L	10	15	30		
	lbs/day ^a	734	1,101	2,202		
pH	standard units				6.0	8.5
Priority Pollutants						
Copper, Total Recoverable	ug/L	17		26		
Chlorodibromomethane	ug/L	3.5		10.3		
Dichlorobormomethane	ug/L	12.2		29.3		
Zinc, Total Recoverable	ug/L	57		86		
Non-Conventional Pollutants						
Ammonia Nitrogen, Total (as N)	mg/L	0.7		2.15		

¹ Based upon a design flow of 8.8 mgd.

- b. **Percent Removal:** The average monthly percent removal of BOD₅ and TSS shall not be less than 85 percent.
- c. **Acute Whole Effluent Toxicity.** Survival of aquatic organisms in 96-hour bioassays of undiluted waste shall be no less than:
- 70%, minimum for one bioassay; and
 - 90%, median for any three consecutive bioassays.
- d. **Chronic Whole Effluent Toxicity.** There shall be no chronic whole effluent toxicity in the effluent.
- e. **Total Residual Chlorine.** Effluent total residual chlorine shall not exceed:
- 0.011 mg/L, as a 4-day average;
 - 0.019 mg/L, as a 1-hour average;

- f. **Total Coliform Organisms.** From the effective date of this Order and for three years thereafter, effluent total coliform organisms shall not exceed:
 - i. 23 most probable number (MPN) per 100 mL, as a monthly median; and
 - ii. 240 MPN/100mL, more than once in any 30-day period.
 - g. **Total Coliform Organisms.** Beginning on the first day of the fourth year following the effective date of this Order, and thereafter, effluent total coliform organisms shall not exceed:
 - i. 23 most probable number (MPN) per 100 mL, as a 7-day median; and
 - ii. 240 MPN/100mL, more than once in any 30-day period.
 - h. **Average Daily Discharge Flow.** The average dry weather flow shall not exceed 8.8 mgd.
 - i. **Aluminum, Total Recoverable.** For a calendar year, the annual average effluent limitation shall not exceed 200 ug/L.
5. Furthermore, all NPDES permits must specify requirements for recording and reporting monitoring results. (40 C.F.R. § 122.48). CWC section 13383 authorizes the Regional Water Board to establish monitoring and reporting requirements. The WDRs require the Discharger to implement a discharge monitoring program and to prepare and submit timely monthly and annual NPDES self-monitoring reports to the Regional Water Board, which are designed to ensure compliance with effluent limitations contained in the WDRs.

STATEMENT OF WATER CODE SECTIONS UPON WHICH LIABILITY IS BEING ASSESSED

6. An administrative civil liability may be imposed pursuant to the procedures described in CWC section 13323. An administrative civil liability complaint alleges the act or failure to act that constitutes a violation of law, the provision of law authorizing administrative civil liability to be imposed, and the proposed administrative civil liability.
7. Pursuant to CWC section 13385(a), any person who violates CWC section 13376, any waste discharge requirements issued pursuant to Chapter 5.5 of the Porter-Cologne Water Quality Control Act (Compliance with the Provisions of the Clean Water Act), any requirements established pursuant to CWC section 13383, or any requirements of section 301 of the Clean Water Act is subject to administrative civil liability pursuant to CWC section 13385(c).

8. CWC section 13385(c), provides for the imposition of civil liability by the Regional Water Board in an amount not to exceed the sum of both of the following: (1) Ten thousand dollars (\$10,000) for each day in which the violation occurs; and (2) where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.
9. CWC sections 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

CWC section 13385(h)(1) states:

Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each serious violation.

CWC section 13385 (h)(2) states:

For the purposes of this section, a "serious violation" means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

CWC section 13385(i)(1) states:

Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:

- A) Violates a waste discharge requirement effluent limitation.
- B) Fails to file a report pursuant to Section 13260.
- C) Files an incomplete report pursuant to Section 13260.
- D) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

ALLEGED EFFLUENT LIMITATION VIOLATIONS

Effluent Limitation Violations, Mandatory Minimum Penalties

10. Between 17 December 2009 and 2 April 2011 the Discharger exceeded effluent limits and reported six serious violations for residual chlorine and total suspended solids (TSS) and four non-serious violations for biological oxygen demand (BOD₅) and TSS. A summary of these violations can be found in Appendix A.

11. On 17 December 2009, between 0900 and 1000 hours, the 1-hour average chlorine residual concentration at EFF-001 was calculated to be 0.025 mg/L or 25 percent greater than the allowed 1-hour average chlorine residual effluent limitation of 0.02 mg/L. This serious violation is subject to mandatory minimum penalties under CWC section 13385(h)(1).
12. On 17 December 2009, between 1000 and 1100 hours, the 1-hour average chlorine residual concentration at EFF-001 was calculated to be 0.05 mg/L or 150 percent greater than the allowed 1-hour average chlorine residual effluent limitation of 0.02 mg/L. This serious violation is subject to mandatory minimum penalties under CWC section 13385(h)(1).
13. On 17 December 2009, between 1100 and 1200 hours, the 1-hour average chlorine residual concentration at EFF-001 was calculated to be 0.043 mg/L or 115 percent greater than the allowed 1-hour average chlorine residual effluent limitation of 0.02 mg/L. This serious violation is subject to mandatory minimum penalties under CWC section 13385(h)(1).
14. On 25 March 2011, between 0000 and 0100 hours, the 1-hour average chlorine residual concentration at EFF-001 was calculated to be 0.04 mg/L. This serious violation is subject to mandatory minimum penalties; however, given the potential for harm from this violation the Central Valley Water Board has elected to issue a discretionary penalty for this violation, detailed below.
15. On 25 March 2011, between 0100 and 0200 hours, the 1-hour average chlorine residual concentration at EFF-001 was calculated to be 0.07 mg/L. This serious violation is subject to mandatory minimum penalties; however, given the potential for harm from this violation the Central Valley Water Board has elected to issue a discretionary penalty for this violation, detailed below.
16. On 27 March 2011, the daily maximum total settleable solids concentration at EFF-001 was measured at 46.3 mg/L or 54.3 percent greater than the allowed maximum daily maximum total settleable solids effluent limitation of 30 mg/L. This serious violation is subject to mandatory minimum penalties under CWC section 13385(h)(1).
17. On 27 March 2011, the daily maximum BOD-5 concentration at EFF-001 was measured at 36.4 mg/L or 21.3 percent greater than the allowed daily maximum BOD-5 effluent limitation of 30 mg/L. This non-serious violation is subject to mandatory penalties under CWC section 13385(i)(1) because the violation was preceded by three or more effluent limitation violations within a six-month period.
18. On 31 March 2011, the daily maximum total settleable solids concentration at EFF-001 was measured at 38.5 mg/L or 28.3 percent greater than the allowed maximum daily maximum total settleable solids effluent limitation of 30 mg/L. This non-serious violation is subject to mandatory penalties under CWC section 13385(i)(1) because the violation was preceded by three or more effluent limitation violations within a six-month period.

19. On 2 April 2011, the weekly average BOD₅ concentration at EFF-001 was measured at 15.5 mg/L or 3.3 percent greater than the allowed weekly average BOD-5 effluent limitation of 15 mg/L. This non-serious violation is subject to mandatory penalties under CWC section 13385(i)(1) because the violation was preceded by three or more effluent limitation violations within a six-month period.
20. On 2 April 2011, the weekly average total settleable solids concentration at EFF-001 was measured at 19.5 mg/L or 30 percent greater than the allowed weekly average total settleable solids effluent limitation of 15 mg/L. This non-serious violation is subject to mandatory penalties under CWC section 13385(i)(1) because the violation was preceded by three or more effluent limitation violations within a six-month period.

Effluent Limit Violations, Discretionary Penalties

21. On 25 March 2011, between 0000 and 0100 hours, the 1-hour average chlorine residual concentration at EFF-001 was calculated to be 0.04 mg/L or 110.5 percent greater than the 1-hour average chlorine residual effluent limitation of 0.019 mg/L. In addition, a maximum concentration of 0.32 mg/l or 1,584 percent greater than the allowed 1-hour average chlorine residual effluent limitation of 0.019 mg/L was measured at EFF-001.
22. On 25 March 2011, between 0100 and 0200 hours, the 1-hour average chlorine residual concentration at EFF-001 was calculated to be 0.07 mg/L or 268 percent greater than the 1-hour average chlorine residual effluent limitation of 0.019 mg/L. In addition, a maximum concentration of 0.21 mg/L or 1,005 percent greater than the allowed 1-hour average chlorine residual effluent limitation of 0.019 mg/L was measured at EFF-001.
23. Excess chlorine is a pollutant parameter that is exceptionally harmful to the environment. The two violations cited exceeded the 1-hour average chlorine residual effluent limitation in WDR Order R5-2010-0096 by more than 100 percent. The gravity of these violations posed a serious threat to water quality and aquatic life in the Sacramento River. The Central Valley Water Board staff has determined that discretionary penalties based on the volume of discharge from the hours of 0000 to 0200 are appropriate for these two violations.
24. The discharge volume on 25 March 2011 from the hours of 0000 to 0200 was determined by multiplying the 1-minute average discharge flow (3,348.44 gallons per minute (gpm) during the exceedance) by the exceedance time (actual discharge time above chlorine residual effluent limitation of 0.019 mg/L) of 55 minutes. Total volume equals 3,348.44 gpm multiplied by 55 minutes for a total discharge of 184,164 gallons.

FACTORS CONSIDERED IN DETERMINING ADMINISTRATIVE CIVIL LIABILITY

25. Pursuant to CWC section 13385, subdivision (e), in determining the amount of any civil liability imposed under CWC section 13385(c), the Central Valley Water Board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its ability to

continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require. CWC section 13385, subdivision (e) also requires that at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation(s).

26. On 17 November 2010, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on 20 May 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in CWC section 13385(e). The entire Enforcement Policy can be found at:

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf

The administrative civil liability was derived from the use of the penalty methodology in the Policy. The proposed civil liability takes into account such factors as the Discharger's culpability, history of violations, ability to pay and continue in business, and other factors as justice may require. The required factors have been considered for the prohibited discharge violations using the methodology in the Enforcement Policy, as explained in detail in Attachment B.

PROPOSED ADMINISTRATIVE CIVIL LIABILITY

27. Pursuant to CWC section 13385, subsections (h) and (i), the Central Valley Water Board is required to assess a mandatory minimum penalty in the amount of twenty four thousand dollars (\$24,000) for violations of the WDRs Order No. R5-2003-0130 and WDRs Order No. R5-2010-0096 incurred by exceeding the effluent limitations, as shown in Attachment A.
28. The maximum penalty for the chlorine residual effluent limitation violation described above is \$1,856,640 based on a calculation of the total number of gallons discharged times the statutory maximum, plus the total number of per-day violations times the statutory maximum penalty (183,164 gallons at \$10/gallon plus 1 day at \$10,000/day). However, based on consideration of the factors in Finding 23 and after applying the penalty methodology, the Assistant Executive Officer of the Central Valley Water Board proposes that civil liability be imposed administratively on the Discharger in the amount of **\$200,000** for the violations of CWC section 13385. The specific factors considered in this penalty are detailed in Attachment B.
29. There are no statutes of limitations that apply to administrative proceedings. The statutes of limitations that refer to "actions" and "special proceedings" and are contained in the California Code of Civil Procedure apply to judicial proceedings, not an administrative proceeding. See *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal. App. 4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, §405(2), p. 510.)

COMPLAINT NO. R5-2011-0587
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
CITY OF REDDING, CLEAR CREEK WASTEWATER TREATMENT PLANT
SHASTA COUNTY

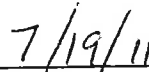
30. Notwithstanding the issuance of this Complaint, the Central Valley Water Board retains the authority to assess additional penalties for violations of the requirements of the Discharger's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.
31. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321 subsection (a)(2).

THE CITY OF REDDING CLEAR CREEK WASTEWATER TREATMENT PLANT IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed a penalty in the amount of **two hundred thousand dollars (\$200,000)**.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled **on 12/13/14 October 2011**, unless the Discharger does one of the following by **1 August 2011**:
 - a) Waives the hearing by completing the attached form (checking off the box next to Option 1) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **two hundred thousand dollars (\$200,000)**; or
 - b) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests to engage in settlement discussions by checking off the box next to Option #2 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed; or
 - c) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests a delay by checking off the box next to Option #3 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed.
3. If a hearing on this matter is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
 - a. If this matter proceeds to hearing, the Assistant Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal and expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.



ROBERT A. CRANDALL
Assistant Executive Officer



(Date)

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent the City of Redding, Clear Creek Wastewater Treatment Plant (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2011-0587 (hereafter Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

☐ **(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)**

- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **two hundred thousand dollars (\$200,000)** by check that references "ACL Complaint R5-2011-0587" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the Central Valley Water Board by **3 August 2011**.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability

☐ **(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Valley Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

☐ **(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)

Attachment A
CITY OF REDDING, CLEAR CREEK WASTEWATER TREATMENT PLANT

Table 1. Calculation of Mandatory Minimum Penalties

Violation Date	Discharge Point	Pollutant/Parameter	Effluent Limit	Analytical/Calculated Results	Percentage Over	Violation Type	180-day Violation Count	MMP
12/17/2009	D-001	Residual Chlorine	1-hr Average 0.02 mg/L	0.025 mg/L	25%	Serious Group II	1	\$3,000
12/17/2009	D-001	Residual Chlorine	1-hr Average 0.02 mg/L	0.05 mg/L	150%	Serious Group II	2	N/A
12/17/2009	D-001	Residual Chlorine	1-hr Average 0.02 mg/L	0.043 mg/L	115%	Serious Group II	3	N/A
3/25/2011	D-001	Chlorine Residual	1-hr Average 0.019 mg/L	0.04 mg/L	110.5%	Serious Group II	1	Discretionary
3/25/2011	D-001	Chlorine Residual	1-hr Average 0.019 mg/L	0.07 mg/L	268.4%	Serious Group II	2	Discretionary
3/27/2011	D-001	TSS	Daily Maximum 30 mg/L	46.3 mg/L	54.3%	Serious Group I	3	\$3,000
3/27/2011	D-001	BOD ₅	Daily Maximum 30 mg/L	36.4 mg/L	21.3%	Non-Serious	4	\$3,000
3/31/2011	D-001	TSS	Daily Maximum 30 mg/L	38.5 mg/L	28.3%	Non-Serious	5	\$3,000
4/02/2011	D-001	BOD ₅	Weekly Average 15 mg/L	15.5 mg/L	3.3%	Non-Serious	6	\$3,000
4/02/2011	D-001	TSS	Weekly Average 15 mg/L	19.5 mg/L	30%	Non-Serious	7	\$3,000
Total Assessment:								\$24,000

Notes: Serious Group I: any waste discharge that exceeds the effluent limitations for a group I pollutant by 40% or more.
 Serious Group II: any waste discharge that exceeds the effluent limitations for a group II pollutant by 20% or more.
 Non-Serious Violation: A non-serious violation occurs if the discharger does any one of the following four or more times in any period of 180 days:
 (a) violates a WDR effluent limitation;
 (b) fails to file a report of waste discharge pursuant to California Water Code section 13260;
 (c) files an incomplete report of waste discharge pursuant to California Water Code section 13260; or
 (d) violates a whole effluent toxicity limitation where the WDRs do not contain pollutant-specific effluent limitations for any toxic pollutants.
 AMEL: Average Monthly Effluent Limitation
 MDEL: Daily Maximum Effluent Limitation
 N/A: Not Applicable

Attachment B – ACL Complaint No. R5-2011-0587

Specific Factors Considered-Civil Liability

City of Redding, Clear Creek Wastewater Treatment Plant

Each factor of the Enforcement Policy and its corresponding score is presented below for the 25 March 2011 chlorine residual effluent violation.

The Monetary Assessments in Administrative Civil Liability (ACL) Actions is set forth in the Water Quality Enforcement Policy using a nine step approach. The rational for calculating the ACL is discussed below.

Step 1 – Potential for Harm for Discharge Violations

To determine the actual or threatened impact to beneficial uses caused by the violation is done using a three-factor scoring system to quantify: (1) the potential for harm to beneficial uses; (2) the degree of toxicity of the discharge; and (3) the Dischargers susceptibility to cleanup or abatement for each violation or group of violations.

Factor 1: Harm or Potential Harm to Beneficial Uses.

A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm is negligible (0) to major (5). In this case the potential harm to beneficial uses was determined to be below moderate (2). A below moderate score means a less than moderate threat to beneficial uses (i.e., impacts are observed or reasonably expected, harm to beneficial is minor). While the no impacts fish or other aquatic life were observed downstream of the discharge, the concentration of chlorine residual did exceed the USEPA recommended 1-hour average criteria for freshwater aquatic life protection of 0.019 mg/L. The concentration of chlorine residual in the discharge exceeded the water quality objective for short term exposure (0.019 mg/L) by 268.4 percent.

Factor 2: The Physical, Chemical, Biological or Thermal Characteristics of the Discharge. A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material. In this case a score of 3 was assigned. A score of 3 means that the discharged material poses an above-moderate risk or a direct threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material exceed known risk factors and/or there is substantial concern regarding receptor protection). Chlorine residual is known to cause toxicity in fish and aquatic organisms.

Factor 3: Susceptibility to Cleanup or Abatement.

A score of 0 is assigned for this factor if 50% or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned for this factor if less than 50% of the discharge is susceptible to cleanup or abatement. This factor is evaluated regardless of whether the discharge was actually cleaned up or abated by the discharger. In this case cleanup or abatement was not possible. Therefore, a factor of 1 is assigned.

ATTACHMENT B

CITY OF REDDING, CLEAR CREEK WASTEWATER TREATMENT PLANT
SHASTA COUNTY

Final Score – “Potential for Harm”

The scores of the three factors are added to provide a Potential for Harm score for each violation or group of violations. In this case, **a final score of 6** was calculated.

The total score is then used to determine the Penalty Factors for per gallon discharges and per day discharges.

Step 2 – Assessment for Discharge Volumes

This step addresses per gallon and per day assessments for discharge violations.

Per Gallon Assessments for Discharge Volumes

Where there is a discharge, the Water Boards shall determine an initial liability amount on a per gallon basis using on the Potential for Harm score and the extent of Deviation from Requirement of the violation. Although the discharger violated the 1-hour average chlorine residual effluent limitation of 0.019 mg/L, the deviation from the requirement has been determined to be minor in this case. A minor deviation is defined as the intended effectiveness of the requirement remains generally intact (e.g., there is a general intent by the discharger to follow and meet the chlorine residual requirement). The discharge has not had a long term effect on the actual effluent limitation, monitoring requirements, or any other deadlines.

A discharge volume of 184,164 gallons was determined by multiplying the 30 -second average discharge flow rate (1,674 gpm during the exceedance) by the exceedance time of 55 minutes (actual discharge time above chlorine residual effluent limit). While the volume of the discharge appears to be great (184,164 gallons), it is not considered a High Volume Discharge as defined by the Water Quality Enforcement Policy. Therefore, California Water Code (CWC) section 13385(c)(2) allows for an additional liability of ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons. Therefore, the additional liability is calculated on a volume of 183,164 gallons.

Per Day Assessments for Discharge Volumes

CWC section 13385(c)(1) allows for additional ten thousand dollars per day (\$10,000) for each day in which the violation occurs. Since the discharge of violation occurred for approximately one hour, the violation has been determined to be one (1) day. This translates to an additional liability of \$10,000.

Initial Liability Amount: \$147,331 (Number of Days (1) X Maximum Penalty (\$10,000) X Per Day Factor (0.08) + Number of Gallons (183,164) X Max per Gallon (\$10) X Per Gallon Factor (0.08). The per day and per gallon factors are from Tables 1 & 2 of the Water Quality Enforcement Policy and shown below.

ATTACHMENT B

CITY OF REDDING, CLEAR CREEK WASTEWATER TREATMENT PLANT
SHASTA COUNTY**Tables 1 & 2 of the Water Quality Enforcement Policy**

Deviation form Requirement	Potential for Harm (per gallon factors and per day factors)									
	1	2	3	4	5	6	7	8	9	10
Minor	0.005	0.007	0.009	0.011	0.060	0.080	0.100	0.250	0.300	0.350
Moderate	0.007	0.010	0.013	0.016	0.100	0.15	0.200	0.400	0.500	0.600
Major	0.010	0.015	0.020	0.025	0.150	0.220	0.310	0.600	0.800	1.000

Step 3 – Per Day Assessment for Non-Discharge Violation: Does not apply**Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to cleanup or cooperate with regulatory authority, and the violator's compliance history.

Culpability

Adjustments should result in a multiplier between 0.5 and 1.5, with the lower multiplier for accidental incidents, and a higher multiplier for negligent behavior. The Discharger was operating in a bypass/blending manner using the blending structure at the Facility at the time of the violation. The valve at the blending structure was set in the manual setting and remained open for the duration of the discharge allowing the flow to continue to the facilities outfall structure. The bypass valve at the outfall structure was open allowing effluent to be sent to pond #6. The bypass valve to pond #6 was not capable of handling the volume of effluent being sent to the outfall structure from the blending structure valve being open. The Discharger was given a multiplier value of 1.25, due to the blending structure valve being operated in the manual position and not closing it in a timely manner.

Cleanup and Cooperation

Adjustments should result in a multiplier between 0.75 and 1.5, with the lower multiplier where there is a high degree of cleanup and cooperation, and a higher multiplier where this is absent. The Discharger was given a multiplier value of 0.75, which decreases the violation amount. The discharger has a history of providing prompt notification of discharge events and cooperative in the cleanup following up and mitigation measures necessary to protect water quality.

History of Violation

The discharger has had 21 effluent limitation violations since January 2007. Four separate discharges of chlorine residual resulted in nine effluent limitation violations (two on 1/28/2007, one on 1/29/2007, one on 3/8/2007, three on 17 December 2009, and two on 3/25/2011). While the Water Quality Enforcement Policy does not list a multiplier range, where there is a history of repeat violations, a minimum multiplier of 1.1 should be used. Given the number of effluent limitations violation since January 2007, the Discharge was given a 1.25, which increases the initial liability amount by twenty five percent.

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CITY OF REDDING, CLEAR CREEK WASTEWATER TREATMENT PLANT
SHASTA COUNTY

Step 5 - Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 2.

Total Base Liability Amount: \$172,653 (Initial Liability Amount (\$147,331) X Adjustment Factors (1.25)(0.75)(1.25).

Step 6 - Ability to Pay and Ability to Continue in Business

The City of Redding, Clear Creek Wastewater Treatment Facility is not a for profit enterprise. The City of Redding has approximately 30,000 service connections, 18,000 being connected to the City of Redding Clear Creek Wastewater Treatment Facility. The proposed ACL would equate to less than \$11.00 per service connection. The City of Redding's, wastewater treatment facilities Annual Operations Budget was \$32,792,940 in 2008-2009, \$58,048,650 (includes capital improvements costs) in 2009-2010, and \$35,872,240 for 2010-2011. The City of Redding appears to have the ability to pay the proposed ACL and remain solvent. The ability to pay and to continue in business factor affects the base liability amount as a straight multiplier. The Discharger was given a neutral multiplier value of 1.0, which neither increases nor decreases the violation amount.

Step 7 – Other Factors as Justice May Require

If the Water Board believes that the amount determined using the above factors is inappropriate, the amount may be adjusted under the provision for "other factors as justice may require," but only if express findings are made to justify this.

Costs of Investigation and Enforcement Adjustment

The costs of investigation and enforcement are "other factors as justice may require", and should be added to the liability amount. The Regional Water Board has incurred \$4,350 in staff costs associated with the investigation of the violation and preparation of the enforcement action.

Step 8 – Economic Benefit

An economic benefit gained from the discharge has not been determined.

Step 9 – Maximum and Minimum Liability Amounts

The maximum and minimum amounts for the 25 March 2011 violations (i.e., two 1-hour average violations) must be determined for comparison to the amounts being proposed.

Maximum Liability Amount

The maximum administrative civil liability which can be imposed under section 13385 of the CWC is \$10,000 per day per violation plus of ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons. The calculated discharge is a total of 184,164 gallons, none of which was cleaned up. Therefore, the **maximum administrative civil liability is \$1,841,640** (183,164 gallons at \$10/gallon plus 1 day at \$10,000/day).

ATTACHMENT B

CITY OF REDDING, CLEAR CREEK WASTEWATER TREATMENT PLANT
SHASTA COUNTY

Minimum Liability Amount

The minimum administrative civil liability determined under section 13385(h) of the CWC would be \$3,000 for each serious violation. Central Valley Water Board staff has determined that the 1-hour average chlorine residual exceeded the effluent limitation during two separate hours which results in two serious violations. However, only one (1) mandatory minimum penalty is issued for a 24-hour period chlorine residual violations. Therefore, the **minimum administrative civil liability is \$3,000.**

Step 10 – Final liability Amount

The final liability amount consists of the added amounts for each violation, with any allowed adjustments, provided amounts are within the statutory minimum (\$3,000) and maximum (\$1,841,640) amounts. Without further investigation of the discharge, calculation of economic benefits, and additional staff time, the proposed discretionary amount for the Administrative Civil Liability is **\$177,000.**

Table 1. Adjustment Factors

Adjustment Factors	Range	Factors Used
Harm or Potential Harm to Beneficial Uses	0 to 5	2
Physical, Chemical, Biological or Thermal Characteristics of the Discharge	0 to 4	3
Susceptibility to Cleanup or Abatement	0 or 1	1
Final Score	0 to 10	6
Per Gallon Assessment	Minor, Moderate, Major	Minor
Per Day Assessment	Minor, Moderate, Major	Minor
Culpability	0.5 to 1.5	1.25
Cleanup and Cooperation	0.75 to 1.5	0.75
History of Violations	Subjective, based on history	1.25
Ability to Pay	Based on financial information	1
Other Factors as Justice May Require	Subjective, based on investigation	1
Economic Benefit	Subjective, based on investigation	1
Discretionary Violation Amount		\$177,000



Linda S. Adams
Acting Secretary for
Environmental Protection

ATTACHMENT C
California Regional Water Quality Control Board
Central Valley Region
Katherine Hart, Chair

415 Knollcrest Drive, Suite 100, Redding, California 96002
(530) 224-4845 • FAX (530) 224-4857
<http://www.waterboards.ca.gov/centralvalley>



Edmund G. Brown Jr.
Governor

NOTICE OF VIOLATION

14 February 2011

CERTIFIED MAIL

7009 2250 0002 9885 3941

Dennis McBride
Wastewater Utility Manager
City of Redding
P.O. Box 496071
Redding, CA 96049-6071

**CHLORINE RESIDUAL EFFLUENT LIMIT VIOLATION, NPDES ORDER NO. R5-2007-0058,
CITY OF REDDING, STILLWATER WASTEWATER TREATMENT PLANT, ANDERSON,
SHASTA COUNTY**

On 23 January 2011 the City of Redding's Stillwater Wastewater Treatment Plant discharged effluent to the Sacramento River with a chlorine residual greater than the daily maximum¹ chlorine residual effluent limitation of 0.02 mg/L. The high chlorine residual on 23 January 2011 also resulted in the 4-day chlorine residual effluent limitation of 0.01 mg/L being exceeded. The reported daily maximum chlorine residual for 23 January 2011 was 1.46 mg/L and the 4-day average chlorine residual was reported at 0.015 mg/L. The 23 January 2011 incident occurred over a period of one hour where the total discharge volume in violation of the effluent chlorine residual limitation was 67,253 gallons.

CWC section 13385(h)(2) defines a serious violation as an exceedance of 40% or more of a group I pollutant as defined in 40 CFR 123.45 or an exceedance by 20% or more of a group II pollutant as defined in 40 CFR 123.45. Chlorine residual is a group II pollutant under 40 CFR 123.45, and the measured exceedances are therefore serious violations under CWC section 13385 (h), and are subject to a mandatory minimum penalty of \$3,000 each. Administrative civil liability beyond the mandatory minimum penalty may be imposed.

This matter is being referred to the Executive Officer of the Central Valley Regional Water Quality Control Board for consideration of further enforcement action.

¹ Daily maximum is based on a 1-hour average.

If you have any questions regarding the above information, please contact Stacy Gotham of my staff at (530) 224-4993 or at the letterhead address above.



Bryan J. Smith, P.E.
Supervising WRC Engineer

SSG: knr

cc: USEPA, Region 9, San Francisco
SWRCB, Sacramento
California Dept. of Fish and Game, Redding
Shasta County Dept. of Resource Management, Environmental Health Division, Redding
John Szychulda, Wastewater Utility Supervisor - Stillwater, City of Redding, Anderson
Josh Kenner, Wastewater Utility - Compliance Coordinator, City of Redding, Redding

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ATTACHMENT D



Linda S. Adams
Acting Secretary for
Environmental Protection

California Regional Water Quality Control Board
Central Valley Region
Katherine Hart, Chair

415 Knollcrest Drive, Suite 100, Redding, California 96002
(530) 224-4845 • FAX (530) 224-4857
<http://www.waterboards.ca.gov/centralvalley>



Edmund G. Brown Jr.
Governor

NOTICE OF VIOLATION

31 May 2011

CERTIFIED MAIL
7009 2250 0002 9885 4269

Mr. Dennis McBride
Municipal Utilities Director
City of Redding
P.O. Box 496071
Redding, CA 96049-6071

WDID 5A450103004

VIOLATION OF WASTE DISCHARGE REQUIREMENTS ORDER R5-2007-0058, NPDES PERMIT NO. CA0082589, CITY OF REDDING - STILLWATER WASTEWATER TREATMENT PLANT, ANDERSON, SHASTA COUNTY

The discharge of treated wastewater from the City of Redding's (Discharger) Stillwater Wastewater Treatment Plant (Facility) is regulated by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) pursuant to Waste Discharge Requirements (WDRs) Order R5-2007-0058, NPDES Permit No. CA0082589 adopted by the Central Valley Water Board on 21 June 2007.

Central Valley Water Board staff has determined that the Discharger violated an effluent limitation of the WDRs in August 2009. This Notice of Violation explains the basis for determining the violation and explains the potential additional enforcement actions for the violations.

Permit Conditions

Effluent Limitations A.1 contained in WDR Order R5-2007-0058 limits the dichlorobromomethane effluent concentration as follows:

Parameter	Units	Effluent Limitations	
		Average Monthly	Maximum Daily
Dichlorobromomethane	ug/L	18.1	36.2

Violation

Effluent Limitation A.1, Dichlorobromomethane Average Monthly Effluent Limitation.

The effluent concentration of dichlorobromomethane for August 2009 was reported as 22 ug/L which exceeds the average monthly effluent limitation of 18.1 ug/L.

Enforcement Actions

Pursuant to the California Water Code (CWC) section 13385, the violations of the WDRs are potentially subject to administrative civil liability of up to ten thousand dollars for each day in which the violations occurred, and up to ten dollars per gallon of wastewater discharged in excess of 1,000 gallons. Furthermore, pursuant to CWC section 13385 (h) and (i) certain effluent violations are subject to Mandatory Minimum Penalties of \$3,000 per qualifying violation. The actual liability can vary between the Mandatory Minimum Penalty amount and the maximum amount discussed above.

As described in the attached table, the violation cited in this letter is subject to a Mandatory Minimum Penalty in the amount of \$3,000. This matter is being referred to the Executive Officer of the Central Valley Water Board for consideration of issuance of an Administrative Civil Liability Complaint (ACLC). If the EO issues an ACLC, the amount will be set at the Mandatory Minimum Penalty, or an amount up to the maximum potential liability.

Please review the violation cited by this letter and the attached Mandatory Minimum Penalty calculation table for accuracy and submit any comments/corrections **by 15 June 2011**. If you have any questions regarding this letter, please contact Stacy Gotham at (530) 224-4993, or at the letterhead address above.



Bryan J. Smith, P.E.
Supervising Water Resource Control Engineer

SSG:jmtm

Encl: Attachment A. Calculation of Mandatory Minimum Penalty.

cc: U.S. Environmental Protection Agency, San Francisco
SWRCB, Sacramento
Shasta County Department of Resource Management, Environmental Health Division,
Redding
Kurt Starman, City of Redding Manager, Redding
John Szychulda, Wastewater Utility Supervisor – Stillwater Plant, Redding
Josh Keener, City of Redding, Redding

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Attachment A

CITY OF REDDING, STILLWATER WASTEWATER TREATMENT PLANT

Table 1. Calculation of Mandatory Minimum Penalty

Violation Date	Discharge Point	Pollutant/ Parameter	Effluent Limit	Analytical/ Calculated Result	Percentage Over	Violation Type	180-day Violation Count	MMP	Penalty Status
8/31/2009	D-001	Dichlorobromomethane	18.1 ug/L AMEL	22 ug/L	21.5%	Serious Group II	1	\$3,000	New Assessment
							Total New Assessment:	\$3,000	

Notes:

Serious Group I: any waste discharge that exceeds the effluent limitations for a group I pollutant by 40% or more.

Serious Group II: any waste discharge that exceeds the effluent limitations for a group II pollutant by 20% or more.

Non-Serious Violation: A non-serious violation occurs if the discharger does any one of the following four or more times in any period of 180 days:

(a) violates a WDR effluent limitation;

(b) fails to file a report of waste discharge pursuant to California Water Code section 13260;

(c) files an incomplete report of waste discharge pursuant to California Water Code section 13260; or

(d) violates a whole effluent toxicity limitation where the WDRs do not contain pollutant-specific effluent limitations for any toxic pollutants.

AMEL: Average Monthly Effluent Limitation



Linda S. Adams
Acting Secretary for
Environmental Protection

ATTACHMENT E
California Regional Water Quality Control Board
Central Valley Region
Katherine Hart, Chair

415 Knollcrest Drive, Suite 100, Redding, California 96002
(530) 224-4845 • FAX (530) 224-4857
<http://www.waterboards.ca.gov/centralvalley>



Edmund G. Brown Jr.
Governor

NOTICE OF VIOLATION

18 May 2011

CERTIFIED MAIL

7009 2250 0002 9885 4214

Mr. Dennis McBride
Municipal Utilities Director
City of Redding
P.O. Box 496071
Redding, CA 96049-6071

WDID 5A450103001

**VIOLATION OF WASTE DISCHARGE REQUIREMENTS ORDER R5-2010-0096,
NPDES PERMIT NO. CA0079731, CITY OF REDDING - CLEAR CREEK WASTEWATER
TREATMENT PLANT, REDDING, SHASTA COUNTY**

Discharges from the City of Redding's (Discharger) Clear Creek Wastewater Treatment Plant (Facility) are regulated by Waste Discharge Requirements (WDR) Order R5-2010-0096, NPDES Permit No. CA0079731. On 5, 7, 8, and 13 April 2011 the Discharger submitted documentation of multiple violations of the subject WDR to the Central Valley Regional Water Quality Control Board (Central Valley Water Board). The violations occurred between the period of 23 March 2011 and 3 April 2011, when the Facility discharged effluent that was partially-treated (filters were bypassed) during a high influent flow event. The high influent flow event was triggered by multiple rain events during which time West Redding received approximately 15.4 inches¹ of rain in the month of March. The rainfall, however, was not atypical for Redding. In the last 6 water years, there have been three additional 30-day periods where rainfall totals exceeded 15 inches.²

The Discharger is in violation of the following limits set forth in the subject WDR:

1. Discharge Prohibition III.A. "Discharge of wastewater at a location or in a manner different from that described in the Findings is prohibited."

During the period of 23 March 2011 to 3 April 2011 (12 days) the Discharger bypassed the filtration process for a portion of Facility waste flow. The total volume of effluent discharged during the 12-day bypass was approximately 195 million gallons³.

¹ As measured at the Redding Fire Station (RFS) and reported by the California Data Exchange Center.

² Data obtained from hydrologic years 05/06, 06/07, 07/08, 08/09, 09/10, 10/11 at Redding Fire Station (RFS) and reported by the California Data Exchange Center.

³ Total discharge volume is a conservative estimate. On 26, 27, 28, and 29 March 2011 effluent flows periodically exceeded the reporting limit (23 MGD) of the effluent flow meter. Therefore the actual discharge volume for these four days is greater than the measured value reported by the Discharger.



2. Discharge Prohibition III.B. "The by-pass or overflow of wastes to surface waters is prohibited, except as allowed by Federal Standard Provisions I.G. and I.H. (Attachment D)."

The bypass started on 23 March 2011 and ended on 3 April 2011 (12 days). Standard Provision I.G(b) requires the Discharger to demonstrate that there were no "feasible alternatives to the bypass." This phrase has been interpreted to include the construction of wastewater storage units to handle peak flows and improvements to the sanitary sewer collection system to minimize inflow and infiltration. The Discharger did not have adequate storage units to handle the wet weather flows, and as discussed below, the Discharger's collection system has excessive inflow and infiltration.

3. Discharge Provision III.D. "The Discharger shall not allow pollutant-free wastewater to be discharged into the collection, treatment, and disposal system in amounts that significantly diminish the system's capability to comply with this Order. Pollutant-free wastewater means rainfall, ground water, cooling waters, and condensates that are essentially free of pollutants."

The Discharger has excessive inflow and infiltration into its collection system. The average dry weather influent flow at the Facility is approximately 7.1 MGD. The average influent flow between the start of the bypass and the last day of rain (31 March 2011) was 28 MGD. The maximum daily influent flow for the month was 37.8 MGD with a peak 1-hour average influent flow rate of 44 MGD (and an instantaneous peak flow of 83.5 MGD) on 20 March 2011. Therefore, the peak 1-hour influent flow exceeded six times the average dry weather flows.

4. Effluent Limitation A.1.a. "The Discharger shall maintain compliance with the following effluent limitations at Discharger Point No. 001 with compliance measured at Monitoring Location EFF-001 as described in the attached MRP (Attachment E)":

Parameter	Units	Average Monthly	Average Weekly	Maximum Daily
Biochemical Oxygen Demand, 5-day@ 20°C	mg/L	10	15	30
Total Suspended Solids	mg/L	10	15	30

On 27 March 2011 the effluent BOD₅ concentration exceeded the daily maximum limit; the reported value was 36.4 mg/L. In addition, the total suspended solids (TSS) maximum daily limit was exceeded on 27 March 2011 and 30 March 2011, the reported values were 46.3 mg/L and 38.5 mg/L, respectively. The BOD₅ and TSS weekly average limitations were also exceeded between 27 March 2011 and 2 April 2011, the calculated values were 15.5 mg/L and 19.1 mg/L, respectively.

5. Effluent Limitation A.1.d. "Total Residual Chlorine. Effluent total residual chlorine shall not exceed:
 - i. 0.011 mg/L, as a 4-day average; and
 - ii. 0.019 mg/L, as a 1-hour average."

On 25 March 2011 the effluent chlorine residual 1-hour average limit was exceeded twice in a 24-hour period. From midnight to 1 AM the average effluent chlorine residual was 0.04 mg/L with a peak chlorine residual of 0.32 mg/L. From 1 AM to 2 AM the average effluent chlorine residual was 0.07 mg/L with a peak chlorine residual of 0.21 mg/L. The total volume of effluent discharged, in exceedance of the chlorine residual limitation, was reported at 211,316 gallons.

6. Special Provisions C.4.b(iii) and (vi) states that when discharges to the emergency storage basin occur, the Discharger shall ensure compliance with the following operation and maintenance requirements:

- i. "The emergency storage basin shall not have a pH less than 6.5 or greater than 8.5 for periods of greater than 72 hours."
- vi. "Freeboard in the emergency storage basin shall not be less than 2 feet (measured vertically to the lowest point of overflow), except if lesser freeboard does not threaten the integrity of the emergency storage basin, no overflow of the emergency storage basin occurs, and lesser freeboard is due to direct precipitation or storm water runoff occurring as a result of annual precipitation with greater than a 100-year recurrence interval, or a storm event with an intensity greater than a 25-year, 24-hour storm event."

During the period of 29 March 2011 through 6 April 2011, ten of the Facility's twelve ponds were used for emergency storage. Nine of the ten emergency storage basins' pH values were greater than 8.5 (for a period of greater than 72 hours).

During the period of 27 March 2011 through 1 April 2011 the freeboard in Pond 10 was less than two feet. The subject storm event(s) do not meet the local 25-year, 24-hour storm event precipitation total and the local-area accumulated rainfall total does not exceed the 100-year recurrence interval annual precipitation.

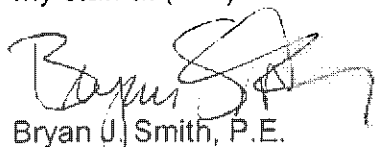
Failure to comply with the requirements of your WDR may result in enforcement actions including a Cease and Desist Order pursuant to Section 13301 and/or Civil Liability under Section 13385 of the California Water Code (CWC). The Central Valley Water Board can impose administrative civil liabilities for violations of the terms and condition of the WDR. The maximum fine for each day of violation is ten thousand dollars (\$10,000) plus ten dollars (\$10) multiplied by the number of gallons by which the volume discharged exceeds 1,000 gallons.

Furthermore, mandatory minimum penalties are required by CWC section 13385, subdivisions (h) and (i) for specified violations of NPDES permits. For violations that are subject to mandatory minimum penalties, the Water Boards must assess an ACL for the mandatory minimum penalty or for a greater amount. CWC section 13385(h) requires that a mandatory minimum penalty of \$3,000 be assessed by the Water Boards for each serious violation. A serious violation is any waste discharge that exceeds the effluent limitation for a Group I pollutant by 40 percent or more, or a Group II pollutant by 20 percent or more. CWC section 13385(i) requires that a mandatory minimum penalty of \$3,000 be assessed by the Water Boards for each non-serious violation, not counting the first three violations in any period of 180 days.

BOD₅ and TSS are Group I pollutants and chlorine residual is a Group II pollutant. Based on the submitted data, the two 1-hour average chlorine residual violations from 25 March 2011 and the 27 March 2011 maximum daily TSS violation are serious violations. The remaining four TSS and BOD₅ violations are non-serious violations. However, the four non-serious violations occurred after the 25 March 2011 chlorine violations and the 27 March 2011 TSS violation, and are considered the 4th, 5th, 6th, and 7th effluent violations in a 180 day period, and thus subject to a mandatory minimum penalty of \$3,000 each. This calculation is provided in Attachment A.

This matter has been referred to the Executive Officer for consideration of further enforcement action.

If you have any questions regarding the above information, please contact Stacy Gotham of my staff at (530) 224-4993 or at the letterhead address above.



Bryan U. Smith, P.E.
Supervising Water Resources Control Engineer

SSG: jmtm

Encl: Attachment A. Calculation of Mandatory Minimum Penalties

cc: U.S. Environmental Protection Agency, San Francisco
SWRCB, Sacramento
Shasta County Department of Resource Management, Environmental Health Division,
Redding
Kurt Starman, City of Redding Manager, Redding
Troy Mitchell, Wastewater Utility Supervisor – Clear Creek Plant, Anderson
Josh Keener, City of Redding, Redding

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Attachment A

CITY OF REDDING, CLEAR CREEK WASTEWATER TREATMENT PLANT

Table 1. Calculation of Mandatory Minimum Penalties

Violation Date	Discharge Point	Pollutant/Parameter	Effluent Limit	Analytical Results	Percentage Over	Violation Type	180-day Violation Count	MMP	Penalty Status
3/25/2011	D-001	Chlorine Residual	0.019 mg/L 1-hour average	0.04 mg/L	110.5%	Serious Group II	1	\$3,000	New Assessment
3/25/2011	D-001	Chlorine Residual	0.019 mg/L 1-hour average	0.07 mg/L	268.4%	Serious Group II	2	\$3,000	New Assessment
3/27/2011	D-001	TSS	30 mg/L Daily Max	46.3 mg/L	54.3%	Serious Group I	3	\$3,000	New Assessment
3/27/2011	D-001	BOD ₅	30 mg/L Daily Max	36.4 mg/L	21.3%	Non-Serious Group I	4	\$3,000	New Assessment
3/30/2011	D-001	TSS	30 mg/L Daily Max	38.5 mg/L	28.3%	Non-Serious Group I	5	\$3,000	New Assessment
4/02/2011	D-001	BOD ₅	15 mg/L Weekly Average	15.5 mg/L	3.3%	Non-Serious Group I	6	\$3,000	New Assessment
4/02/2011	D-001	TSS	15 mg/L Weekly Average	19.1 mg/L	27.3%	Non-Serious Group I	7	\$3,000	New Assessment
Total New Assessment:								\$21,000	

Notes: Serious Group I: any waste discharge that exceeds the effluent limitations for a group I pollutant by 40% or more.
 Serious Group II: any waste discharge that exceeds the effluent limitations for a group II pollutant by 20% or more.
 Non-Serious Violation: A non-serious violation occurs if the discharger does any one of the following four or more times in any period of 180 days:
 (a) violates a WDR effluent limitation;
 (b) fails to file a report of waste discharge pursuant to California Water Code section 13260;
 (c) files an incomplete report of waste discharge pursuant to California Water Code section 13260; or
 (d) violates a whole effluent toxicity limitation where the WDRs do not contain pollutant-specific effluent limitations for any toxic pollutants.



Linda S. Adams
Acting Secretary for
Environmental Protection

ATTACHMENT F
California Regional Water Quality Control Board
Central Valley Region
Katherine Hart, Chair

415 Knollcrest Drive, Suite 100, Redding, California 96002
(530) 224-4845 • FAX: (530) 224-4857
<http://www.waterboards.ca.gov/centralvalley>



Edmund G. Brown Jr.
Governor

NOTICE OF VIOLATION

18 May 2011

CERTIFIED MAIL
7009 2250 0002 9885 4221

Mr. Dennis McBride
Municipal Utilities Director
City of Redding
P.O. Box 496071
Redding, CA 96049-6071

WDID 5A450103004

VIOLATION OF WASTE DISCHARGE REQUIREMENTS ORDER R5-2007-0058, NPDES NO. CA0082589, CITY OF REDDING - STILLWATER WASTEWATER TREATMENT PLANT, ANDERSON, SHASTA COUNTY

Discharges from the City of Redding's (Discharger) Stillwater Wastewater Treatment Plant (Facility) are regulated by Waste Discharge Requirements (WDR) Order R5-2007-0058, NPDES Permit No. CA0082589. On 5 and 7 April 2011 the Discharger submitted documentation of multiple violations of the subject WDR to the Central Valley Regional Water Quality Control Board (Central Valley Water Board). The violations occurred between the period of 26 March 2011 and 28 March 2011, when the Facility discharged effluent that was partially-treated (filters were bypassed) during a high influent flow event. The high influent flow event was triggered by multiple rain events during which time the southeast portion of Redding received approximately 8.39 inches¹ of rain in the month of March. The rainfall, however, was not atypical for Redding. In the last 6 water years, there have been at least three additional 30-day periods where rainfall totals exceeded 8.3 inches.²

The Discharger is in violation of the following limits set forth in the subject WDR:

1. Discharge Prohibition III.A. "Discharge of wastewater at a location or in a manner different from that described in the Findings is prohibited."

During the period of 26 March 2011 to 28 March 2011 (3 days) the Discharger bypassed the filtration process for a portion of Facility waste flow. The total volume of effluent discharged during the 3-day (51.5 hours) bypass was approximately 23.9 million gallons.

¹ As measured at the Redding Airport and reported by the National Weather Service.

² Data obtained from hydrologic years 05/06, 06/07, 07/08, 08/09, 09/10, 10/11 at the Redding Airport and reported by the National Weather Service and the Western Regional Climate Center.

2. Discharge Prohibition III.B. "The by-pass or overflow of wastes to surface waters is prohibited, except as allowed by Federal Standard Provisions I.G. and I.H. (Attachment D)."

The bypass started on 26 March 2011 and ended on 28 March 2011 (3 days). Standard Provision I.G(b) requires the Discharger to demonstrate that there were no "feasible alternatives to the bypass." This phrase has been interpreted to include the construction of wastewater storage units to handle peak flows and improvements to the sanitary sewer collection system to minimize inflow and infiltration. The Discharger did not have adequate storage units to handle the wet weather flows, and as discussed below, the Discharger's collection system has excessive inflow and infiltration.

3. Discharge Provision III.D. "The Discharger shall not allow pollutant-free wastewater to be discharged into the collection, treatment, and disposal system in amounts that significantly diminish the system's capability to comply with this Order. Pollutant-free wastewater means rainfall, ground water, cooling waters, and condensates that are essentially free of pollutants."

The Discharger has excessive inflow and infiltration into its collection system. The average dry weather influent flow at the Facility is approximately 2.6 MGD. The Facility experienced high influent flows for a period between 19 March 2011 and 29 March 2011 where influent flows exceeded 10 MGD for six days of the 10-day period. The maximum daily influent flow for the month was 12.57 MGD (20 March 2011). The peak 1-hour average influent flow rate was 13.35 MGD on 26 March 2011. Therefore, the peak 1-hour influent flow rate exceeded five times the average dry weather flow rate.

Failure to comply with the requirements of your WDR may result in enforcement actions including a Cease and Desist Order pursuant to Section 13301 and/or Civil Liability under Section 13385 of the California Water Code (CWC). The Central Valley Water Board can impose administrative civil liabilities for violations of the terms and condition of the WDR. The maximum fine for each day of violation is ten thousand dollars (\$10,000) plus ten dollars (\$10) multiplied by the number of gallons by which the volume discharged exceeds 1,000 gallons.

This matter has been referred to the Executive Officer for consideration of further enforcement action.

If you have any questions regarding the above information, please contact Stacy Gotham of my staff at (530) 224-4993 or at the letterhead address above.



Bryan J. Smith, P.E.

Supervising Water Resources Control Engineer

SSG: jmtm

cc: See Attached List

cc: U.S. Environmental Protection Agency, San Francisco
SWRCB, Sacramento
Shasta County Department of Resource Management, Environmental Health Division,
Redding
Kurt Starman, City of Redding Manager, Redding
John Szychulda, Wastewater Utility Supervisor – Stillwater Plant, Anderson
Josh Keener, City of Redding, Redding

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PUBLIC WORKS
FIELD OPERATIONS
JUN 21 2012

Central Valley Regional Water Quality Control Board

NOTICE OF VIOLATION

20 June 2012

CERTIFIED MAIL

7009 2250 0002 9885 2999

Mr. Jon McClain
Assistant Public Works Director
City of Redding
P.O. Box 496071
Redding, CA 96049-6071

WDID 5A450103004

**VIOLATION OF WASTE DISCHARGE REQUIREMENTS ORDER R5-2007-0058, NPDES
NO. CA0082589, CITY OF REDDING - STILLWATER WASTEWATER TREATMENT
PLANT, ANDERSON, SHASTA COUNTY**

The discharge of treated wastewater from the City of Redding's (Discharger) Stillwater Wastewater Treatment Plant (Facility) is regulated by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) pursuant to Waste Discharge Requirements (WDRs) Order R5-2007-0058, NPDES Permit No. CA0082589 adopted by the Central Valley Water Board on 21 June 2007.

Central Valley Water Board staff has determined that the Discharger violated an effluent limitation of the WDRs in January 2012. This Notice of Violation explains the basis for determining the violations and explains the potential additional enforcement actions for the violations.

Permit Conditions

WDR Order R5-2007-0058 Effluent Limitation 1.a. sets forth the following effluent limitations for pH:

Parameter	Unit	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
pH	standard units	--	--	--	6.0	9.0

On 1 March 2012, the Discharger submitted documentation of Facility effluent pH limitation violations to the Central Valley Water Board. The violations occurred on 12 January 2012 and 13 January 2012, when effluent was discharged to the Sacramento River with a pH of less than 6.0 s.u. On 12 January 2012, effluent pH ranged from a minimum of 4.12 to less than

KARL E. LONGLEY ScD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCEE, EXECUTIVE OFFICER

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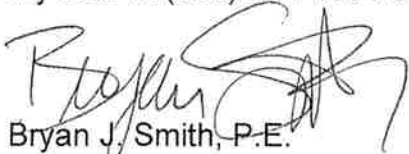
6.0 s.u. for a total discharge time period of 303 minutes. The total effluent volume discharged to the Sacramento River during the 303 minute time period is estimated at 450,000 gallons¹. On 13 January 2012, effluent pH ranged from a minimum of 5.53 to less than 6.0 s.u. for a total discharge time period of 198 minutes. The total effluent volume discharged to the Sacramento River during 198 minute time period is estimated at 247,500 gallons².

The Discharger indicated that a combination of unseasonably low flows coupled with solids levels being maintained for normal wintertime operation probably caused the measured decrease in alkalinity resulting in the low effluent pH level.

Enforcement Actions

Pursuant to the California Water Code (CWC) section 13385, the violations of the WDRs are potentially subject to administrative civil liability of up to ten thousand dollars for each day in which the violations occurred, and up to ten dollars per gallon of wastewater discharged in excess of 1,000 gallons. This matter has been referred to the Executive Officer for consideration of further enforcement action.

Please submit any comments/corrections regarding this Notice of Violation **by 18 July 2012**. If you have any questions regarding the above information, please contact Scott Gilbreath of my staff at (530) 224-4851 or at the footer address.



Bryan J. Smith, P.E.

Supervising Water Resources Control Engineer

SMG: jmtm

cc: U.S. Environmental Protection Agency, San Francisco
SWRCB, Sacramento
Shasta County Department of Resource Management, Environmental Health Division,
Redding
John Szychulda, Wastewater Utility Supervisor – Stillwater Plant, Anderson
Josh Keener, City of Redding, Redding
Layne Friedrich/ Drevet Hunt, Lawyers for Clean Water, Inc., San Francisco
Bill Jennings, California Sportfishing Protection Alliance, Stockton

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¹ Based on 1/12/2012 reported effluent flow rate of 2.14 mgd.

² Based on 1/13/2012 reported effluent flow rate of 1.8 mgd.



California Regional Water Quality Control Board
Central Valley Region

Katherine Hart, Chair

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<http://www.waterboards.ca.gov/centralvalley>

ATTACHMENT H



Linda S. Adams
Acting Secretary for
Environmental Protection

Edmund G. Brown Jr.
Governor

NOTICE OF VIOLATION

15 February 2011

Dennis McBride
Wastewater Utility Manager
City of Redding
P.O. Box 496071
Redding, CA 96049-6071

CERTIFIED MAIL
7009 2250 0002 9885 3958

WDID: 5SSO10801

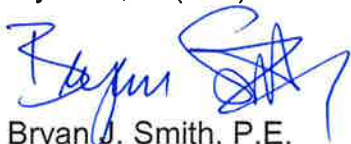
**SANITARY SEWER OVERFLOWS, SWRCB GENERAL ORDER NO. 2006-0003-DWQ,
CITY OF REDDING, SHASTA COUNTY**

On 24 October 2010 and 11 December 2010 the City of Redding's (City) collection system had a sanitary sewer overflow (SSO) that resulted in discharges of untreated wastewater to surface waterbodies. The 24 October 2010 SSO (located at 2700 South Market Street) caused a discharge of approximately 19,000 gallons to Linden Creek. The 11 December 2010 SSO (located at 2317 Waldon Street / 2222 California Street) caused a discharge of approximately 450 gallons to Calaboose Creek. Both receiving waters are tributaries of the Sacramento River.

The City wastewater collection system is regulated by State Water Resources Control Board Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (General WDR). General WDR, Prohibition C.1 states, "Any SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited." The 24 October 2010 and 11 December 2010 SSOs are in violation of Prohibition C.1 of the General WDR.

This matter is being referred to the Executive Officer of the Central Valley Regional Water Quality Control Board for consideration of further enforcement action, possibly including the imposition of administrative civil liability.

If you have any questions regarding the above information, please contact Stacy Gotham, of my staff, at (530) 224-4993 or at the letterhead address above.


Bryan J. Smith, P.E.

Supervising WRC Engineer

**PUBLIC WORKS
FIELD OPERATIONS**

FEB 16 2011

cc: SWRCB, Sacramento
California Dept. of Fish and Game, Redding
Shasta County Dept. of Resource Management, Environmental Health Division, Redding
Josh Kenner, Wastewater Utility - Compliance Coordinator, City of Redding, Redding

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PUBLIC WORKS
FIELD OPERATIONS

APR 16 2012



ATTACHMENT I

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

NOTICE OF VIOLATION

13 April 2012

CERTIFIED MAIL

7009 2250 0002 9885 2869

WDID: 5SSO10801

Mr. Jon McClain
Assisitant Public Works Director
City of Redding
P.O. Box 496071
Redding, CA 96049-6071

RAW SEWAGE SPILLS, STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS (WDRs) FOR SANITARY SEWER SYSTEMS, WATER QUALITY ORDER NO. 2006-0003-DWQ, CITY OF REDDING CS, SHASTA COUNTY

The Redding Collection System which is owned and operated by the City of Redding (Enrollee) is regulated under Waste Discharge Requirements (WDRs) Water Quality Order No. 2006-0003-DWQ (Sanitary Sewer Systems WDRs). Central Valley Regional Water Board staff reviewed the certified reports submitted to the database by the legal responsible official regarding the Category 1 SSO(s) that occurred between 1 January 2012 and 31 March 2012. The SSO(s) are summarized in the following table:

CIWQS Violation ID	Date of Spill	Spill ID	Volume Spilled (gallons)
916927	1/9/2012	775937	69900

The SSO(s) described above are in violation of WDRs Order No. 2006-003-DWQ as described below:

- Furthermore, if the spill reaches surface waters, Discharge Prohibition No. 1 of the WDR states: *"Any SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited."*
- The Provisions section of the WDRs states: *"The Enrollee must comply with all conditions of this Order. Any noncompliance with this Order constitutes a violation of the California Water Code and is grounds for enforcement action."*

CIWQS violation reports are publicly available at

http://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.shtml#sso

The Enrollee should take the appropriate actions to prevent future SSO occurrences, take all feasible steps to remediate the consequences of the overflows and implement the provisions of the Sanitary Sewer Systems WDRs.

KARL E. LONGLEY ScD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCCE, EXECUTIVE OFFICER

415 Knollcrest Drive, Suite 100, Redding, CA 96002 | www.waterboards.ca.gov/centralvalley

These violations are subject to possible further enforcement action by the Central Valley Water Board, including administrative enforcement orders, administrative assessment of civil liability in amounts up to \$10,000 (ten thousand dollars) per day, referral to the State Attorney General for injunctive relief, and referral to the District Attorney for criminal prosecution.

If you have any questions regarding this Notice of Violation, please contact Scott Gilbreath at (530) 224-4851 or sgilbreath@waterboards.ca.gov.



Bryan J. Smith, P.E.
Supervising Water Resource Control Engineer

SMG: jmtm

cc: Victor Lopez, State Water Board, SSO Program, vlopez@waterboards.ca.gov
James Fischer, State Water Board, Office of Enforcement, jfischer@waterboards.ca.gov

City of Redding
SSOs Covered by Stipulated ACL

ATTACHMENT J

CIWQS ID #	Date	Location	Spill Volume (gal)
778800	02/26/2012	1600 Victor Ave.	200
778798	02/15/2012	3751 Traverse St.	30
775937	01/09/2012	Behind 2118 Sophy Pl.	69,900
775260	01/01/2012	1261 Dusty Ln.	400
774437	11/28/2011	485 Wright Dr.	150
771521	08/22/2011	2475 Beverly Dr.	60
768481	06/20/2011	615 Orchard Estates Dr.	200
766781	04/21/2011	1065 Dara Ct.	35
765612	03/28/2011	3251 School St.	25
765610	03/14/2011	ROW north of 1100 Butte St.	25
763169	02/16/2011	11082 Campers Ct.	138
763161	02/04/2011	ROW adjacent to 1918 Chestnut St.	50
762373	01/19/2011	710 Pioneer Dr.	400
759392	12/11/2010	2222 California St.	550
759101	11/10/2010	Hemingway St. & San Gabriel St.	93
758118	10/24/2010	2700 Market St.	18,900
757165	09/03/2010	901 College View Dr.	90
756763	09/02/2010	1025 Denton Way	700
756302	08/18/2010	610 Churn Creek Rd.	40
756301	08/18/2010	500 Davis Ridge Rd.	150
754690	07/05/2010	ROW adjacent to 1923 Sonoma St.	10
752851	06/01/2010	1800 Mesa St.	500
749811	02/16/2010	3100 Foothill Blvd.	10
749193	02/08/2010	3252 Auburn Dr.	780
749190	02/07/2010	ROW adjacent to 965 West St.	30
749182	02/05/2010	630 Twin View Blvd.	60
748623	01/20/2010	Lakeside Dr. ROW near Regatta Ct.	150
748320	01/11/2010	Cypress Ave. Bridge	1,680
748245	01/05/2010	705 Loma Vista Dr.	2
747466	12/10/2009	1540 Cottonwood Ave.	115
747268	11/27/2009	11780 Talofa Dr.	600
746709	11/07/2009	1721 Market St.	20
737314	05/09/2009	7831 Terra Linda Way	1,400
737120	05/02/2009	1717 Benton Dr.	15
735663	03/27/2009	1250 Parkview Ave.	400
735435	03/24/2009	Venus Way & Mercury Dr.	100
735145	03/16/2009	975 N. Market St.	30,000
735141	03/16/2009	410 Overhill Dr.	40,000
735098	03/16/2009	Orange Ave. Area	51,000
735094	03/16/2009	Willis St. Area	25,500
733610	02/16/2009	407 Lake Blvd.	500
731669	01/09/2009	2151 Wilson Ave.	1,500
731520	01/06/2009	1717 Benton Dr.	15
731515	01/04/2009	975 N. Market St.	3,000
731487	01/06/2009	1717 Benton Dr.	15
731260	12/30/2008	1130 Continental St.	200
731259	12/30/2008	1130 Continental St.	200
730954	12/20/2008	2933 West Way	10
730313	12/07/2008	300 Boulder Creek Dr.	500
729815	11/24/2008	Lancers Ln. & Burton Ct.	500
729098	11/08/2008	1153 LeBrun Ave.	350

727792	10/11/2008	2439 Placer St.	100
727758	10/10/2008	963 West St.	120
727712	10/08/2008	Shasta St. & Almond St.	100
727241	10/01/2008	410 Overhill Dr.	3,000
727172	09/29/2008	410 Overhill Dr.	200
726890	09/24/2008	2650 Eighth St.	3
726598	09/18/2008	1035 Placer St.	500
724780	08/14/2008	Placer St ROW at O'Conner Ave.	30
724287	08/05/2008	4099 Remington Dr.	200
721140	06/29/2008	1310 Ridge Dr.	50
719566	06/13/2008	2830 King St.	100
718946	06/03/2008	3879 Patterson Ct.	75,000
717203	05/09/2008	1977 Salzburg Dr.	20
717019	05/03/2008	1055 Harpole Ln.	700
716213	04/15/2008	2334 Washington Ave	125
715919	04/06/2008	3345 Magnums Way	400
715594	03/31/2008	1169 Almond St.	10
714647	03/05/2008	3105 Foothill Blvd.	23,000
714573	03/03/2008	3105 Foothill Blvd.	10,000
713952	02/25/2008	Eureka Way ROW at Willis St	900
712399	02/02/2008	1684 E. Cypress Ave.	22,500
710886	01/04/2008	Lakeside Dr. ROW	250
705035	10/10/2007	795 Lincoln St.	100
704995	10/10/2007	2070 Skyline Dr.	540
656783	09/03/2007	1000 East St.	4

Total # of SSOs: 76

Total Volume : 389250

ATTACHMENT K PROJECT DESCRIPTION

Project Title Private Sewer Lateral Replacement Program SEP

Geographic area of interest: City of Redding

Name of responsible entity: City of Redding Public Works Department, Wastewater Utility

Estimated cost for project completion: \$800,000

Estimated Non-participating costs: \$170,500

Contact information: Name Jon McClain

Address P.O. Box 496071, Redding, CA 96049-6071

Phone (530) 224-6068 email: jmccclain@ci.redding.ca.us

Overview:

For the requested Supplemental Environmental Project (SEP), the City of Redding (City) hereby proposes a private lateral replacement program. The goal would be a reduction of inflow and infiltration (I&I) from defective private laterals into the City's sewer collection system, thereby benefiting the public and improving water quality. This program would be voluntary and target areas with infrastructure that is at least 40 years old, with program funding utilized over five years. The City maintains its discretion to alter the terms of this project as necessary to maximize public and environmental benefit, for example by broadening allowances for repair and similar modifications.

Project:

The City would develop a private lateral replacement program targeting residential neighborhoods with sewer infrastructure at least 40 years old. The program would be voluntary and fund replacements up to a \$5,000 maximum, with this maximum reviewed after the first year of the project and subject to change if necessary to maximize public benefit. Interested private homeowners would request to participate in the program through an application process, and these applications would be reviewed in the order received. To be eligible for the program, the homeowner's private sewer lateral would need to meet all of the following criteria:

- Must be in the City's wastewater service area.
- Constructed prior to January 1, 1973.
- Have a lateral clean-out at the structure.
- Fail the visual (CCTV) and/or hydrostatic test – i.e., offset joints, root wades, broken pipe sections, etc.

- Twenty percent of the applications approved by the third party as meeting other criteria would be hydrostatically tested before and after replacement to collect data for future use.

The program would consist of eleven tasks:

PHASE I

Task A – Project Management

Project management encompasses all QA/QC activities, selection of third party for oversight and administration, preparation of construction contract documents, database management, quarterly and final reporting, and all necessary costs directly associated with specific project oversight. It also allows for field inspection of work in progress and training purposes.

Task B – Public Notification of Program

The City would prepare a letter explaining the program to be sent to property owners with homes over 40 years old. Approximately 18,000 homes within the City's sewer system meet that criterion. An announcement of the program would be made by direct mailing and would also be included in the monthly newsletter that accompanies utility bills. The City would also prepare a press release explaining the program, the reasons for the program, and what a SEP is. Packages would also be sent to local contractors licensed to perform the work to help promote the program.

PHASE II

Task A – Handling Requests to be included in the Program

The third party would review property owner requests to determine if they meet initial selection criteria, such as the age of the home and access to a cleanout at the house for inspection purposes. Inspection appointments would be made by the third party for requests that meet the initial selection criteria.

Task B – Inspection

The third party would evaluate the lateral to determine if it meets eligibility criteria. The inspection process would confirm or deny eligibility. This inspection process is as follows:

- Determine age of lateral
- Locate cleanout
- Hydro clean lateral
- CCTV lateral to assess condition and determine length to main
- Determine leakage rate by hydrostatic test (20% of applicants) – record data for monitoring report and future use
- Determine if lateral meets the criteria for the program
- Make recommendation to City

Task C – City Determines Eligibility

City staff would review recommendations of third party and select laterals for the program. The third party would then contact the property owner and provide the information necessary to get three quotes from qualified contractors to perform the work.

Task D – Property Owner obtains three quotes

Using the construction contract documents provided by the third party the property owner would obtain three quotes for the work from contractors with a Class A (General Engineering Contractor), C-34 (Pipeline Contractor), or C-36 (Plumbing Contractor) license. Quotes would be on construction contract documents, which would include:

- Price quote detail sheet – to allow comparison between bids
- Technical Specifications – to describe minimum construction requirements
- City of Redding Construction Standards – to describe minimum construction requirements
- Indemnification/Insurance/Bonding Requirements
- DIR Wage Determinations – Prevailing Wage Rates
- Plumbing/Encroachment Permit Applications
- IRS Form W-9 for Property Owner to report receipt of grant funds

Task E – City Approval of proposed work

The third party reviews the quotes submitted by the property owner and recommends to City approval of the reimbursement agreement up to lowest bid amount or maximum allowed per connection of \$5,000, whichever is lower. This maximum would be reviewed after the first year of the program and adjusted if necessary to maximize the number of laterals to be replaced.

PHASE III

Task A – Contractor completes the work

The contractor is hired by the property owner and completes the quoted work approved by the City. The contractor is responsible for permit compliance (Plumbing Permit and Encroachment Permit) and acceptance by both the Public Works Inspector for work within the Right-of-Way and the Building Inspector for work on private property.

Task B - Property Owner requests inspection by Third Party

Upon completion of the work, the property owner requests inspection by the third party. This inspection to include:

- Hydro clean lateral
- CCTV inspection (DVD)

- Hydrostatic test

If the lateral passes the hydrostatic test, the third party would obtain signature/acceptance of the work from the property owner and advise the City the lateral work is approved for payment.

Task C - Contractor Payment for Approved Work

The City issues a two payee check to both the property owner and the contractor. (This method would ensure that the contractor got paid timely and the property owner did not have to upfront the funds for the work.) An IRS Form 1099 G would be provided to the property owner for the work. (In most cases this benefit is not taxable but goes into the value of the home (basis) for future sale and capital gains calculation.)

PHASE IV

Task A - Data Summary and Final Audit

The City's third party would prepare an Engineer's Report summarizing the program and a final audit of the program expenditures. The Engineer's Report would include:

- Areas where private laterals were replaced,
- The type of materials replaced,
- The estimated age of materials replaced,
- The condition of the laterals prior to repair or replacement,
- Comparison of pre and post leakage test results for the 20% of replacements that are hydrostatically tested before replacement.

Cost:

The estimated total cost of the project is \$970,500, of which \$800,000 would be SEP participating costs dedicated to the development and implementation of the private lateral replacement program. Additional costs to the City, estimated to be \$170,500, are considered to be non-participating, and are not included in the SEP amount. These non-participating costs include City staff and material cost beyond costs considered in the SEP amount. A breakdown of the program cost estimates is shown in the following table. These numbers are estimates and actual costs may vary.

Program Component	SEP Participating Cost Estimate	SEP Non-Participating Cost Estimate
Notification	\$20,000	\$5,000
Third Party Selection/Admin./Oversight	\$75,000	\$19,000
Lateral Replacement Construction	\$705,000	\$126,500
Construction Inspection Cost		\$20,000
Total Estimated Cost	\$800,000	\$170,500

Implementation:

Upon approval of the settlement agreement, the City would begin development and implementation of the private lateral replacement program.

Deliverables Table (Attached):

The deliverable dates are based on a January 1, 2013 project start date. This assumption is based on the possibility that this SEP project would be approved by the Executive Officer of the Regional Water Quality Control Board, and that contracting and finalization of the project agreements can be completed in calendar year 2012. If this cannot be accomplished, due dates would be revised and adjusted accordingly. The suspended penalty will be reduced and waived in proportion to the related SEP fund expenditures.

Third Party Oversight

The City's third party auditor would review the financial aspects of the program and would provide a final assessment report to the Board within 21 days after completion of the project, outlining how the project met the financial goals of the proposal.

ATTACHMENT L
PRIVATE SEWER LATERAL SEP DELIVERABLES TABLE

Milestone	Description	Completion Date	SEP Participating Expenditure Amount	Suspended Penalty Reduction Amount
Program Administration	3 rd Party Administration; Public Notification; Monthly, Quarterly & Annual Reports; Annual Program Review & Revision	Ongoing	\$95,000	\$47,000
Lateral Replacement – Year 1		December 2013	\$141,000 (annual goal)	\$75,000*
Lateral Replacement – Year 2		December 2014	\$141,000 (annual goal)	\$75,000*
Lateral Replacement – Year 3		December 2015	\$141,000 (annual goal)	\$75,000*
Lateral Replacement – Year 4		December 2016	\$141,000 (annual goal)	\$75,000*
Lateral Replacement – Year 5		December 2017	\$141,000 (annual goal)	\$75,000*
Final Engineer's Report & Audit		February 1, 2018		\$3,000
		TOTALS	\$800,000	\$425,000

*The suspended penalty is reduced annually by the same percentage as the SEP total expended. If the annual expenditure goal is not met the remainder will be carried over to the next year and the corresponding reduction in suspended penalty will occur in future years.